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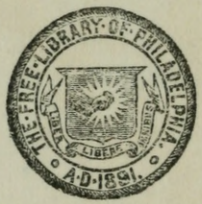

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THE DETHRONEMENT OF THE CITY BOSS

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THE DETHRONEMENT OF THE CITY BOSS

Being a Study of the Commission Plan as begun in Galveston, developed and extended in Des Moines, and already taken up by many other cities, East and West

BY

JOHN J. HAMILTON

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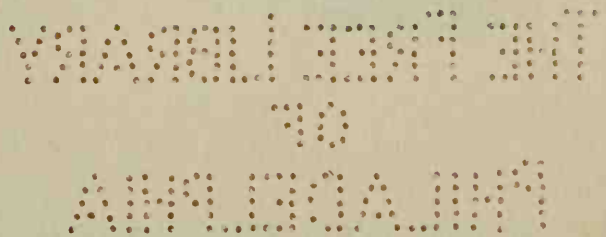

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To my old friend
James G. Berryhill

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CONTENTS

PAGE

PREFACE 9

CHAPTER

I—CITY GOVERNMENT BY COMMISSION A NEW ANCHORAGE FOR DEMOCRACY 15

II—PERTINENT FACTS ABOUT DES MOINES . . . 26

III—GENERAL VIEW OF THE NEW PLAN . . . 33

IV—THE WARD SYSTEM ABOLISHED 40

V—PARTIZANSHIP ELIMINATED 50

VI—DIRECT AND UNDIVIDED RESPONSIBILITY ASSURED . 58

VII—POPULAR SUPREMACY REESTABLISHED . . . 65

VIII—PUBLICITY GUARANTEED BY LAW 73

IX—THE MERIT SYSTEM EXTENDED AND STRENGTHENED 80

X—FRANCHISES SAFEGUARDED 86

XI—CAUSES OF CORRUPTION REMOVED 92

XII—THE PLAN IN OPERATION 98

XIII—HOW AND WHY SUCCESS WAS WON . . . 103

XIV—THE PLAN ADOPTED AT CEDAR RAPIDS . . . 111

XV—THE INITIATIVE OF THE IOWA STATE BAR ASSOCIATION 125

XVI—SOME FUNDAMENTAL OBJECTIONS ANSWERED . 139

CONTENTS

CHAPTER		PAGE
XVII	Interesting Modifications of the Galveston-Des Moines Plan	147
XVIII	Two Practical Tests of the Double Election Plan	158
XIX	Results of the New System in Five Typical Cities	169
Appendices:		
A	Text of the Des Moines Charter	185
B	The Recall Provision Amended	218
C	Ordinance under which the First Administration was Organized	220
D	The Charter Defeated in 1906. (Full Text)	231
E	The Plan Upheld by the Courts	249
Index		275

PREFACE

WHAT is now becoming generally known throughout the country as the Des Moines plan of municipal government is at once a combination of the approved features of all the best American city charters of recent origin and the concrete result of one American city's earnest efforts, covering more than half a century, to work out the problems of its own administration. The form of government by commission was frankly appropriated from the charter of Galveston. The provision for the recall of unsatisfactory officials was borrowed from Los Angeles. The broader referendum was an enlargement of a right long possest by all cities under an Iowa statute. The initiative was also an existing right, which, together with the protest, was adopted as a result of both general and local discussion. The charter of the city of Dallas, Texas, perhaps most directly suggested the referendum and initiative. The elimination of partizanship from city elections was effected locally, but unquestionably because of convictions nurtured in several decades of nation-wide agitation of the question. The unqualified establishment of the merit system was an evolution from a less

thorough but excellent plan already in operation. The double election was original as a feature of municipal practise, but had many precedents to suggest and justify it. The provisions for purity of elections and administration, for publicity and for the safeguarding of franchises gave effect to local demands due, in part at least, to discussion which had long been going on in every part of the country. The abolition of the ward system was incidental to the adoption of the commission plan, being inherent in it.

In a word, the Des Moines charter can claim no other originality than could justly be predicated of the Constitution of the United States, which was a recasting into a form essentially new of the fundamental laws of England, as modified by colonial experience. Its greatest merit lies in the fact that more than fifty years of local experience was wrought into it, and that it passed through an ordeal, during its formation, which made it an adequate expression of the popular will, and the only one which could have found acceptance. It is, indeed, highly probable that, had any one of the half dozen essential elements of the plan been omitted, it would have been rejected by an electorate educated by two years of intense agitation and earnest debate to know just what it wanted. The ideals thus enforced were, however, the joint crea-

tion of a local constituency stimulated to unusual activity and an American public which for twenty years has given much of its best thought to the problem of securing good city government under democratic auspices.

Des Moines was peculiarly fitted, by its central location, its medium size and its typical character as an American community to solve this problem for the country. It could, in a way, draw upon the experience of the entire civilized world through the medium of its own citizenship. It numbers among its inhabitants natives of every county in Iowa, every state in the union, every country in Europe and every other quarter of the globe; and the travels, reading and studies of its nearly one hundred thousand people have covered every part of the world and embraced the full range of ordinary observation and experience. It is the seat of a university and several other strong institutions of learning; and its newspapers are conducted by able, conscientious and public-spirited men, catering to large and very intelligent constituencies. Moreover, no small part of its ability to deal with the larger problems of its life is due to the organization of its women in clubs which give constant and serious consideration to whatever has a bearing upon the welfare of the community.

PREFACE

Just what scope the present volume should take has been a difficult question for the author to decide. It would have been interesting to trace every provision of the Des Moines charter back through its local history and its evolution from earlier municipal forms in this and other countries. It might, too, have served a useful purpose to relate, in their order, the direct and conscious efforts of the city to frame a new charter, to obtain legislative permission to try the experiment, to convince doubters and objectors of its merits, to establish its constitutionality by judicial procedure, to secure its adoption at the polls, to elect the first council to govern the city under its provisions, and to apply the latter under the conditions of actual administration.

In view, however, of the fact that the plan is still a novelty in American municipal affairs and, tho conspicuously successful in Des Moines and elsewhere so far as tried, still an experiment, probably to be modified as it meets the test of administration in cities of different sizes and varying situations; and that a valuable history of an innovation so radical must include a considerable period of the practical application of the principles involved, it has been deemed advisable to limit this volume to a general statement of the question of municipal government

by commission and an analysis of the Des Moines plan and a presentation of its most essential features. The general endeavor of the writer has been to present the merits of the charter affirmatively rather than in the form of answers to objections; his belief being that if government by a council or commission of five members under the liberal safeguards provided by the Des Moines charter shall continue to bring the excellent results thus far recorded, the statement of what those provisions and safeguards are, of the reasons for their adoption and of the results actually accomplished will be the best possible answer to all objections.

The literature of the subject is already large. The Des Moines newspapers for the past four years have teemed with editorial and contributed articles for and against the new plan. The state courts of Iowa, in holding the charter to be republican in form and essence and open to no constitutional objections, went deeply into the political and legal principles involved. The press of many other cities has accorded generous space to discussion of the merits of the plan, usually showing an intelligent comprehension of its value as a contribution to progress in this department of public affairs. The leading magazines of the country have not failed to see the importance of an advance step

in the government of American cities, and have published numerous illuminating articles upon the subject. To these original sources and still more to the cities which are governed and their affairs administered under charters in the Des Moines form, special students of the question will necessarily repair until the time shall come for an adequate and complete history of the new form of city government. In the meantime, it is hoped that this statement of what the Des Moines plan is and its most important departures from the prevailing municipal forms may prove valuable to those who desire to master the elements of the problem.

I

CITY GOVERNMENT BY COMMISSION A NEW ANCHORAGE FOR DEMOCRACY

TEN years ago the people of this country looked out upon the future in profound skepticism as to the capacity of democracy for the government of cities. For two decades following the civil war our urban population grew at an exceedingly rapid rate and with this growth came evils previously almost unheard of in the United States—election frauds, bribery, betrayal of public trusts, bossism and every form of corruption commonly associated with what is known as machine politics. There were occasional popular uprisings against the increasing power of the notorious ward politicians and city bosses who enriched themselves and their favorites by trafficking in franchises and municipal legislation; but these efforts were sporadic and spasmodic, and were almost invariably followed by reaction and the reinstatement of objectionable politicians in power. To the consternation of old-fashioned good citizens, men whose corruption had been proven beyond a

doubt were repeatedly returned to city councils by constituencies which thus convicted themselves of utter selfishness, base disregard of the public interests, and callous contempt for public opinion. The sinister figure of the municipal boss of New York, Philadelphia, Chicago or Cincinnati began to show itself at state and national political conventions and "deals" with such men were more than hinted at as recognized parts of the game of politics. Good citizens, foreseeing that, in the not remote future, our great cities would dominate the public life of the nation, felt that unless the problem of the popular government of cities were solved the ultimate subversion of the republic was inevitable. The proverbial optimism of the American people sometimes asserted itself in the faith that sometime, somehow, the country would find a way to surmount the obstacles before it; but the most sanguine confessed their inability to point it out.

As, in the '80's and '90's, Dr. Albert Shaw and other publicists investigated and reported conditions in European cities, demonstrating beyond cavil our failure to measure up to our responsibilities, the spirit of self-condemnation in this country became more and more acute and gradually ripened into a pessimism bordering on national cynicism. At the

same time, reform movements in cities became more frequent and were, for brief periods, better supported; and the muck-raking magazines, to which the country owes so much and in so many ways, while obliged to stigmatize an occasional city as "corrupt and contented," were able to name, here and there, a city that was "half free and fighting on." Results, however, were pitifully out of proportion to the unselfish and often heroic endeavors of the reformers.

Then, just as the dawn of the twentieth century was breaking, one American city half stumbled upon what many believe to be the solution of the problem; and seven years later, another city, in another section of the country, beginning where its sister city left off, took up the plan, after ample demonstration of its success, and adapted it, by a few radical changes, to generally prevailing conditions in American municipalities. Thus the Galveston plan, developed into the Des Moines plan, attracted national attention as a form of municipal organization promising relief from conditions which had become well-nigh unbearable.

Never was a political innovation more heartily welcomed. Sixty-seven cities * have already followed

* So rapidly is the charter movement progressing that any list of cities governed by commissions soon becomes obsolete.

Des Moines and Galveston in the adoption of new charters, most of which provide for government by a commission of five members, elected by the people; this small representative body electing all other city

At this writing the sixty-nine cities which have adopted such charters or, like Buffalo, exprest by popular vote a desire to do so, are as follows:

California—Berkeley (modified), Riverside, San Diego.

Colorado—Colorado Springs, Grand Junction.

Idaho—Boise, Lewiston.

Iowa—Des Moines, Cedar Rapids, Keokuk, Burlington, Sioux City.

Kansas—Kansas City, Coffeyville, Leavenworth, Wichita, Independence, Anthony, Topeka, Hutchinson, Pittsburg, Abilene, Neodesha.

Massachusetts—Haverhill, Chelsea, Boston (radically modified).

Mississippi—Jackson.

Missouri—St. Joseph.

New Mexico—Roswell.

New York—Buffalo, Mt. Vernon.

North Carolina—Charlotte.

North Dakota—Minot, Bismarck, Mandan.

Oklahoma—Ardmore, Enid, Tulsa, Miami.

South Carolina—Columbia.

South Dakota—Sioux Falls, Huron, Rapid City, Vermillion, Pierre, Dell Rapids, Mitchell, Chamberlain.

Tennessee—Etowah (modified), Memphis, Bristol (modified), Clarksville (modified), Richard City (modified).

Texas—Galveston, Houston, Palestine, Waco, Fort Worth, Austin, El Paso, Dallas, Dennison, San Antonio, Greenville, Sherman, Beaumont, Corpus Christi, Marshall.

Washington—Tacoma.

Wisconsin—Eau Claire.

officers and serving as heads of five administrative departments. Scores of other cities are agitating the question of adopting similar charters, many of them sending committees of citizens or officials to Galveston or Des Moines to inquire into the practical working of the new system. Twelve states have enacted permissive laws, enabling certain classes of cities to vote upon the question of making the experiment, and in one, the state of Colorado, two cities have taken advantage of a clause in the state constitution directly authorizing the free adoption and changing of municipal charters. In other states, conventions of municipal officials are calling upon their legislatures to pass laws opening the door to the new plan; and such is the contagion of the movement, that it has almost ceased to be difficult to obtain such legislative sanction. The change is taking on the aspects and proportions of a civic revolution; and there are those who believe that the present generation will see the general abandonment of the mayor-and-council type of municipal government with which the country has long been familiar.

The Galveston plan had its origin in the great flood of 1900, a calamity which prostrated the city and necessitated its protection for a time by the military forces of the state. As the troops were withdrawn,

a commission of representative citizens was appointed by the governor to have charge of the rehabilitation of the stricken city. So efficiently did these gentlemen discharge their duties that a return to the inefficiency and the futile wrangling of former days became almost unthinkable. Legislative authority was accordingly obtained to reorganize the city under a permanent commission of five members, three to be appointed by the governor and two elected by the people. The city government proceeded successfully under this charter; but the state supreme court having decided that the people could not under the constitution be divested, even in part, of the right to elect their city officials, a new charter, providing for the election of all the commissioners by popular vote, was adopted. The people ratified the selections already made, and for eight years practically no changes were made in the commission.

The results were remarkable. The rebuilding of the city, the construction of a great sea-wall, the raising of the grade of the entire city and other colossal undertakings, partly by the municipality acting alone, partly in cooperation with the county and state, were carried through promptly, economically and without friction or debate. The new governing body acted substantially as does the directorate of a bank or a

manufacturing or commercial corporation, dispatching business on its merits, without appeals to prejudice or resorts to the scheming and wirepulling of conventional municipal politics. The people of Galveston were pleased; and the citizens of the neighboring city of Houston took note of the new order of things and were quick to emulate their example, adopting a like charter, with equally excellent results, in 1903. By April, 1904, when the National Municipal League assembled at Chicago, knowledge of the successful operation of the new plan had become general, and by 1907, Dallas, Fort Worth, Dennison, El Paso, Sherman and Greenville had fallen into line, followed in subsequent years by Austin, San Antonio, Marshall, Palestine, Waco, and Corpus Christi.

As yet the new fashion was exclusively southern and lacked adaptation to northern ideals, tho powerfully appealing, by its concrete practical results, to hard-headed northern populations. Before all the progress already noted in Texas had been accomplished, the city of Des Moines, Iowa, was at work upon the problem, under conditions which prevented the friends of the Galveston plan from having their way until they had embodied in the charter which the city finally adopted most of the desirable features of

all the modern city charters of the country. The Des Moines plan was thus framed into an approximately ideal municipal charter; and, attracting the attention and commanding the approval of such authorities as Dr. Charles W. Eliot, then president of Harvard University, and such administrators as Mayor Brand Whitlock of Toledo, was welcomed from Massachusetts to California as the long-looked-for advance step toward the reality of good city government.

The Des Moines plan went much further than the Galveston charter. It engrafted upon that instrument the non-partizan double election, the merit system, the initiative, referendum, protest and recall, drawing one or two of these provisions from the charter of Dallas, and in turn giving back several improvements to the latter. Indeed, nothing in the whole movement has been finer than this friendly interchange of ideas, methods and information between northern and southern cities and their generous enthusiasm over one another's successes.

The adoption of the Des Moines plan gave an immense impetus to the charter-building movement. The Des Moines charter became the norm of municipal charter reform both north and south, and interest in it speedily became national. And wherever it was adopted, municipal conditions showed the same

marked improvement as had been recorded at Galveston, Houston and Des Moines.

In most of the cities which have adopted the commission system, there has been less than two years of experience of its operation; and there is no established unit of comparison by which to tabulate results. Every city has its own story of deficits wiped out, floating debts taken up, bonds retired, business methods introduced, long-standing nuisances abated, laws enforced, books better kept, streets kept cleaner, public works more honestly constructed, public buildings erected, additional parks and playgrounds acquired, economies enforced or taxes reduced—one, all or many. All report a revival of public spirit and improvement in business resulting from better civic conditions. To name a few examples: San Diego boasts of its immediately reformed water department —300 new consumers added, better service to the old ones, a net saving of $640 per month in the operating expenses, illegal special rates withdrawn, meter boxes that formerly cost the city ninety cents now purchased for thirty cents; like reforms in the police and sewer departments and, in the department of finance, a check kept on all expenditures. Leavenworth, driven to adopt the new system by the enforced closing of its saloons and the loss of an illegal

revenue of $80,000 a year therefrom, elects as its commissioners a hardware merchant, a soap manufacturer, a lumber merchant, a furniture manufacturer and a transfer and storage factor, who, with $80,000 less revenue, find it possible to pay off $22,200 in bonds and announce their ability further to reduce the running expenses of the city by $26,000 a year. Cedar Rapids employs a civic improvement expert and turns an island in the Cedar River from an eyesore into a beauty spot and a fitting home for municipal buildings, whereas the old regime failed utterly to abate the nuisance. Houston wipes out a floating debt of $400,000 in three years, invests $701,226.74 in permanent improvements and for the first time in its history inaugurates a sinking fund.

There is no variation in the character of the reports—everywhere it is leaks stopt, system taking the place of chaos, efficiency substituted for poor service, promptness for hopeless procrastination, lower for higher tax levies or better values received for the public outlays.

But back of all these causes for congratulation and rising above every other consideration, the student of the new charter discovers that which explains the wonderful vigor and vitality of the whole movement and accounts for a popular favor out of all proportion

to any financial results recorded at Galveston or Des Moines or in any other city operating under the new plan, or all of them combined. It is the reconciliation of the citizen and his city; the new birth of his faith in it and in himself as a factor in its public life; the revival of his hopes for the republic as a thing that is not to languish and die from absorption of the toxins evolved within itself, but is to go on for unreckoned ages, playing a good part in the drama of national life.

Thus, that which most commends the commission plan of municipal government in general and the Des Moines plan in particular is the optimism it brings back into our municipal politics; the new anchorage it affords for the democracy which is conquering the world, but can rule it only so long as it believes in itself.

II

PERTINENT FACTS ABOUT DES MOINES

THE city of Des Moines, which, in April, 1908, entered upon the interesting experiment in municipal government of which this volume treats, is old enough and large enough and has had a municipal experience sufficiently varied and typical to make the success or failure of its new charter—widely known as "the Des Moines plan"—a matter of importance to all American cities which contemplate making fundamental changes in their forms of government. It has been the capital of the state of Iowa for more than half a century and its metropolis for nearly a generation. It had a population of 75,626 in 1905, when the last state census was taken, and has since steadily and rapidly grown. The sources of its population, as ascertained by the federal census of 1900, present an example of the extremely complex processes of city-building in this country that is not only interesting in itself, but valuable in justifying the assumption that a charter which will give good government to Des Moines is not unlikely to prove satisfactory to other cities.

Of the 54,193 native born persons residing in Des Moines in 1900, Alabama contributed 46, Arizona 6, Arkansas 49, California 61, Colorado 86, Connecticut 130, Delaware 24, District of Columbia 26, Florida 8, Georgia 29, Idaho 8, Illinois 4,029, Indiana 2,065, Iowa 32,693, Kansas 614, Kentucky 427, Louisiana 29, Maine 152, Maryland 156, Massachusetts 272, Michigan 450, Minnesota 346, Mississippi 52, Missouri 1,803, Montana 12, Nebraska 672, Nevada 7, New Hampshire 72, New Jersey 157, New Mexico 4, New York 1,767, North Carolina 77, North Dakota 11, Ohio 3,403, Oklahoma 9, Oregon 17, Pennsylvania 1,862, Rhode Island 38, South Carolina 16, South Dakota 104, Tennessee 173, Texas 48, Utah 9, Vermont 256, Virginia 375, Washington 19, West Virginia 142, Wisconsin 857, Wyoming 15, states or territories not specified, 459; while two were born at sea under the United States flag and 47 were born abroad under conditions consistent with American citizenship. No state was unrepresented.

Of the 7,946 foreign-born inhabitants, Africa was the native country of 2, Asia (aside from China, Japan and India) 44, Australia 10, Austria 68, Belgium 6, Bohemia 30, Canada (English) 494, Canada (French) 39, China 5, Cuba 1, Denmark 240, England 909, Finland 9, France 36, Germany 1,432, Greece 4, Hol-

land 66, Hungary 7, India 6, Ireland 902, Italy 195, Japan 3, Luxemburg 2, Mexico 1, Norway 296, Pacific Islands 5, German Poland 3, Russian Poland 295, Poland, not stated, 20, Roumania 47, Russia 380, Scotland 234, South America 1, Spain 1, Sweden 1,907, Switzerland 76, Turkey 16, Wales 133, West Indies 14, other countries 1; born at sea 8. These figures do not, of course, include the second generation.

Des Moines was, until recently, a city of slow growth. It grew compactly, like an eastern or old-world city, until the '80's, when increasing taxes and rapit transit prompted several thousand of its inhabitants to build homes just outside the eight square miles which constituted its original area. By 1890, this evasion of civic responsibilities had become an acknowledged evil; and an act of the legislature enabled the city to annex large areas adjoining it on all sides. Its present corporate limits extend six miles north and south by nine miles east and west, enclosing fifty-four square miles. This encourages an expansion which involves the opening, paving and sewering of a large mileage of streets and corresponding expense to clean the streets and provide fire and police protection and public service of all kinds.

The city is located at the confluence of the Des

Moines and Raccoon rivers. The valleys of these fine streams afford convenient levels for large business districts and for the tracks and yards of the railroad systems and several interurban electric lines which reach out in all directions to grasp the traffic of the richest agricultural and stock-raising region in the world. Back of these commercial and manufacturing districts, gently rising slopes, covered with native elms and oaks, accommodate the residence sections, which extend in some directions out upon the high prairies.

The public schools of the city are not controlled by the municipality, but are managed by a board of directors elected by the same constituency, acting at large; the elections being by common consent non-partisan. The park system was formerly under a separate corporation, coextensive with the city, but was brought under municipal control when the new charter was adopted. It has already been suggested that the schools be brought under the jurisdiction of the city council, with a sixth councilman at their head, but no active measures have as yet been taken looking to that end. One of the grievances of the citizens against the old system, or rather lack of system, was that the taxpayer was at the mercy of numerous independent and unregulated taxing boards,

whose levies were based upon no comprehensive view of the public needs and the resulting revenues expended without system or restraint.

All of the public utilities of Des Moines are owned and operated by private corporations. The street railway system radiates from a central station at the heart of the city, the individual lines running out like the spokes of a wheel. Universal transfers and six fares for twenty-five cents bring intra-mural transportation of passengers within the reach of all. The water supply is derived from galleries in a subterranean stream under the bed of the Raccoon River and the works are operated by a direct system and standpipe. A single company furnishes gas for lighting and fuel at the uniform price of one dollar per thousand cubic feet. There have been two telephone systems for many years, but they are now in process of consolidation. The several plants serving the city with electric lights, heat or power present no noteworthy variations from those rendering like service in other cities.

The problems of municipal government in Des Moines are those common to all American cities. They include the maintenance of order; the care of the public health; sources and regulation of the water supply; protection from fire; intra-mural transporta-

tion; disposal of garbage and sewage and the cleaning of streets; regulation of saloons and suppression of vice; dealing with the smoke, noise and billboard nuisances and overhead wires; paving, sewers, bridges, viaducts, etc., and the dangers from grade crossings; control of auctioneers, hucksters, peddlers and licensed dealers generally; parks and public playgrounds and their regulation and control; supervision of libraries, hospitals and to some extent, public charities; public, private and cooperative services such as lighting, heating and telephones, and a multitude of other matters in which the city controls or participates with the county and state in control. It can hardly be doubted that a charter which brings success in the government of Des Moines will prove valuable in any other city, large or small, in the country. No two cities have exactly the same problems to solve; but the principles underlying the administration of all are the same. What is wanted everywhere is a combination of democracy, official responsibility and efficiency. Des Moines' most important departure from the norm of municipal practise has been its policy of securing all classes of public service through private corporations, whereas many cities own and operate their own water works. On a close analysis, however, it will be seen that,

after all, this difference is not really fundamental. The municipality must see to it that its water supply is unpolluted and that the service is adequate. It has the intermediary company to deal with, but the problem is not essentially more or less difficult on that account. It is an exceptional city, too, that is not as greatly concerned as is Des Moines in the maintenance of just and satisfactory relations with one or more public service corporations.

III

GENERAL VIEW OF THE NEW PLAN

UNDER the Des Moines plan of municipal government the business of the city is conducted by five administrative departments, designated by law as follows:

1. Department of public affairs.
2. Department of accounts and finance.
3. Department of public safety.
4. Department of streets and public improvements.
5. Department of parks and public property.

The department of public affairs is superior to the four other departments in both authority and compensation. It is in charge of the mayor, elected by the people as such, and given general supervision over the four coordinate working departments. The mayor is ex-officio a member and president of a council composed of the heads of the five departments, and has a vote but no veto. He is relieved of practically all merely routine duties save those necessarily arising from his position as official head and mouthpiece of the city, giving him ample time and opportunity for the important labor of cooperation with and su-

pervision over the labors of his four associates. The mayor's salary is $3,500; that of the four councilmen, $3,000 each.

The superintendents of the four coordinate departments are in the first instance elected simply as councilmen. They and the mayor, acting together as a council, at the beginning of their two years' term of office, designate the department which each of the four shall superintend, and divide practically all the detail work of the municipality among the four departments along lines broadly indicated by their names; retaining in the council only those which pertain to the city as a whole.

This small, directly responsible administrative body, resembling the board of directors of a private corporation, takes the place of the mayor, council and various boards among which the powers and duties pertaining to municipal administration have been divided in the past. All other officers and employees of the city are selected by the council.

The five members of the council are elected by the people of the city acting as one constituency, regardless of ward lines. The choice is made at a double election, from which partizanship is strictly excluded, and under restrictions reducing the temptations to and opportunities for corruption to a minimum.

At the primary election, any citizen may become a candidate for mayor or councilman without consulting any committee or submitting to any requirements save that of a petition signed by at least twenty-five qualified voters attesting his good moral character and fitness for the office. The names of all candidates go on the official ballot in alphabetical order, without partisan emblems or designations. The two candidates receiving the highest number of votes for mayor and the eight candidates receiving the highest number of votes for councilmen are declared to be the nominees; and these ten names, and no others, are printed on the ballots for the second and final election, held two weeks later, at which the mayor and four councilmen are elected.

Immediately taking charge of the city government, the new council assigns the four unallotted councilmen to their several departments and defines the powers and duties of each, subject, however, to change whenever it appears that the public service would be benefited thereby. The organization is purposely made elastic, the council being also empowered to assign particular officers and employees to one or more of the departments or to require that they perform duties in two or more departments.

The merit system is given the largest practicable

application in the selection of officers and employees. The council by majority vote elects a city clerk, solicitor, assessor, police judge, treasurer, auditor, civil engineer, city physician, marshal, chief of fire department, market master, street commissioner, three library trustees and other necessary officers and assistants; but all officers and employees must be elected or appointed with reference to their qualifications or fitness and without reference to their political faith or party affiliations. No officer or candidate for office is permitted to promise any person any position, employment, benefit or thing of value for the purpose of influencing his vote or obtaining his support. All subordinate employees, except common laborers, election officials and a few assistants, etc., properly excepted, must be appointed from the civil service lists. A board of civil service commissioners is provided, to conduct examinations of a practical character to determine the fitness of applicants. The fullest publicity as to campaign expenses is required, both the source and manner of expenditure to be reported under oath. No officer or employee is permitted to be interested, directly or indirectly, in any contract with the city or any public service corporation, or to accept any free service therefrom.

All meetings of the council at which any person

not a city officer is admitted, must be open to the public.

No franchise or right to use the streets, highways, bridges or public places of the city can be granted, renewed or extended except by ordinance; and every franchise or grant for interurban or street railways, gas or water works, electric light or power plants, heating plants, telegraph or telephone systems or other public service utilities must be authorized or approved by a majority of the electors voting thereon at a general or special election.

Every motion, resolution, and ordinance of the council must be in writing and the vote of every member of the council for and against it must be recorded.

The council is required to print and effectively distribute, in pamphlet form, each month a detailed itemized statement of all receipts and expenses and a summary of its proceedings during the preceding month. At the end of each year the council must cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and publish the report in pamphlet form.

Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing any contract, or granting any franchise must be complete in its final form and re-

main on file with the city clerk for public inspection at least one week before its final passage or adoption.*

To enable the citizens to prevent the council from fastening objectionable legislation upon the city, provision is made whereby, upon protest of 25 per cent. of the number of electors voting for mayor at the last preceding regular election, the council must either reconsider and repeal the ordinance objected to or submit it to a vote of the people for acceptance or rejection.

To make public sentiment in favor of specific legislation effective, the charter requires that upon petition of 25 per cent. of the number of electors voting for mayor at the last regular election any proposed ordinance must either be passed without alteration by the council or submitted to the people at a general or special election for adoption or rejection as law; a 10 per cent. petition being sufficient to secure submission at a regular election.

To insure good service from the council and to enable the city to purge that body of the membership therein of unworthy persons, provision is made whereby upon a 25 per cent. petition, any mayor or councilman may be compelled to face a special election upon the question of his continuance in office;

* See page 75.

his name going on the ballot as a matter of course and candidates against him by a 10 per cent. petition—the highest vote electing for the remainder of the term and failure to receive it having the effect of removing the incumbent.

IV

THE WARD SYSTEM ABOLISHED

An experience of more than fifty years with the system of representation by wards in Des Moines demonstrated it to be a hopeless failure; and no feature of the new plan was more heartily welcomed than its method of electing all members of the city's governing body by the community at large, giving every voter a voice in the selection of every councilman as well as of the mayor. No matter how the ward lines were arranged—and one conspicuous effort had been made so to divide the city as to make every ward a "good" or at least a "respectable" ward—some wards would invariably elect weak, vicious or incompetent aldermen, maintaining a nucleus of inefficiency and dishonesty which survived from one administration to another and nearly always showed a tendency to spread and increase. In many cases, a show of intense devotion to the ward and its supposed interests was ostentatiously maintained, and this imposed upon the unthinking, who do not always realize that an alderman cannot be

"a good man for his ward" without being faithful to the city as a whole and capable of intelligently looking after both local and general interests at the same time.

The ward system is essentially vicious in that it perverts the political education of the electors and encourages a local selfishness destructive of the general, and ultimately of the local, interests as well. No city can be well governed or its business competently administered whose governing body does not consider the city as a unit and its general interests paramount to local and private selfishness. Every ward fares best in a city in which ward lines are lost sight of in a determination to do at all times the best things for the whole city.

The philosophy which insists upon treating the city as an organic whole is unassailable. The city is physically, socially and economically a unit. It occupies a certain territory geographically and is the abiding place of a definite population. There is a common mind in the community, voiced by the local newspaper press and by it daily supplied with data which, when digested, constitute the basis for the prevailing public opinion. There is, too, at every moment, a dominant public sentiment on every question pending in the community—not always unanimous,

but usually well defined and, most fortunately, usually sound morally and right intellectually. This does not mean that the highest ideals are invariably recognized and accepted, but that that which is decent and honest and of good report is almost always upheld. There is not a city in the United States in which the dominant note of public opinion is not in favor of honesty and efficiency in administration. The worst governed city in America—a large, rich and populous city in which the worst elements remain dominant—daily utters through its press with popular approval a desire for better things, and is held in degrading bondage by fraudulent registration, voting and counting or return of votes, false pretenses of integrity on the part of its corrupt leaders and above all by the breaking up of its local unanimity along ward lines and through excessive partizan allegiance. Great masses of people can act effectively together only along simple and direct lines; but when so acting, they quickly gain enormous momentum.

It has been questioned whether the Des Moines plan of city government would accomplish the same excellent results in the largest cities as in cities of small or medium size; but every consideration which has justified its adoption in places of small popula-

tion applies with added force to the problem as developed in the largest. We have democracy on an enormous scale in this country. Our nearly a hundred millions express their judgments as to men and measures every two years, and especially every four years, with admirable ease and promptitude; and there is no city within our borders so large that, were it given an opportunity to elect five men to be responsible for the conduct of five great, definite departments of its business, could not make the choice with a good degree of intelligence as to the character and capacity of the men; and every known principle of social action gives emphasis to the belief that the directness and simplicity of the issue, the concentration of public attention on the same candidates in all parts of the city, the clearer realization of the importance of the interests at stake, the dignity and value of the individual ballot as reaching to every part of the administration and counting as a city instead of a ward factor, would give a conquering impetus to the wave of popular sentiment evolved in such a contest. Public sentiment once fully aroused and united in an American city has an electric quality which sweeps all before it. Divided into many petty currents, it is wasted and defeated; gathered in one grand stream, it becomes irresistible.

Election by the city at large acts favorably on both the candidate and the voter. The former, to command the attention and hold the support of a large constituency, must have certain conspicuous personal qualities. He must be a man of good repute and of very fair abilities. He must have much personal force of some kind, otherwise he cannot impress himself upon a large number. He comes into competition, too, with all the candidates from all parts of the city and must bear comparison with them. This comparison eliminates, at the start, most of the weak and notoriously unworthy candidates—itself a vast gain over the old system, which persistently and unerringly favors the worst and weakest.

The individual elector, too, is elevated to a new plane and his responsibility to the entire city and his power to take part in its affairs to the fullest extent can scarcely fail to further his civic development and increase his self-respect. By the inherent merit of the new system, he is compelled to take a larger view of his duty as a voter. He is relieved from the buttonholing of the petty local magnate, who has been unable to project himself or his creatures into the running. He cannot, even if he will, bestow any substantial reward through his vote upon the small politician who has given him a "job" at the public

expense or sent him a turkey at the latest holiday season. To just the extent that he uses his ballot as a personal perquisite, giving his vote to some nearby good fellow, he eliminates himself from the determining forces of the contest. Indeed, the pressure upon him thus to abase himself has ceased by reason of the involuntary elimination of the merely neighborhood candidate from public consideration. To have a part in the selection of the men who shall control the municipality, he must of necessity cast his ballot for five of those candidates whose character and abilities have enabled them to command general attention. The American people, during many generations of self-government, have acquired a sixth sense whereby the trend of a political campaign is intuitively discerned. The picture we have just given of the individual voter's situation as modified by the abolition of the ward system is not simply deduced from the necessary change in his attitude. The returns of every election under the Des Moines plan show that this is exactly what takes place. The elimination of the mere weakling and the grossly unworthy and unfit would be pathetic if it were not so thoroughly a matter for general congratulation because of what it means for the public good.

A most gratifying feature of the plan of wiping out

ward lines is the fact that the emancipation of the candidate is perpetuated in that of the office-holder, and that the better auspices under which the citizen casts his ballot persist during the entire term of office of the men his ballot helps to elect. We have had in this country, and especially in our cities, too much servility to the populace immediately before the election and too little regard for the public interests after it; too much fawning when votes were sought and too much defiance of decent public sentiment when they were no longer needed. We need nothing more than frankness, self-respect and independence among our public servants, coupled with a sacred regard for the permanent interests of the community. This we cannot secure under the old system; but under the new, we see it developing under conditions most promising for the future good government of our cities.

The councilman elected by the entire city and looking to the whole electorate for the reward of approval and reelection is under constant pressure of obligation to the city as a unit, and his entire term of office is an unceasing education in taking a broad, comprehensive view of his official obligations. His position forces him to a right point of view. Every concession he makes to local or private selfishness re-

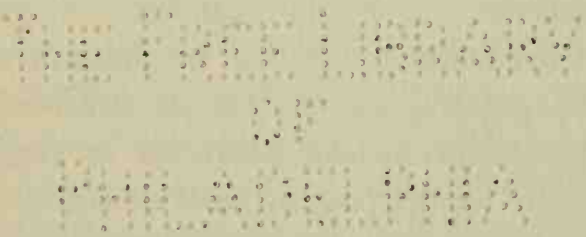
acts and brings down upon him the condemnation of the larger public to which he must look for approval. Every official act dictated by the evident interest of the city as a whole, even if opposed by local clamor, brings him the support of the public at large. The new system provides other guarantees for his good conduct and more cogent reasons for pursuing a course in harmony with the general good; but we are concerned here only with the effect upon his official conduct of his election by all the people of the city, and the conclusion is unavoidable that the tendency of this mode of election is to uphold him in acting on the broader view. The old system made it easier to sacrifice the general interest; the new one renders it easier to act on the lines of the larger public good.

Post-election virtues are cultivated by the new method in the individual citizen also. The ward system invited a conscienceless scramble by the citizens among log-rolling aldermen for unfair local advantage, the respectable citizen usually quieting his own conscience with the plea that if his neighborhood did not obtain an unjustly large share of this or that improvement fund some other part of the city would—the whole force of the general situation sustaining meanness, selfishness and downright dishonesty. But under the system of election by the city at large, the

individual seeking what he ought not to obtain must approach an official obligated to him only as a member of the community at large and enjoying the right, as he is impelled by the necessity, of an appeal to the whole body of citizens. It need hardly be said that the education of both participants in such a conference—their training in treating every problem as affecting the general good—must go steadily forward, and that the standards of citizenship in a city which chooses its rulers by the whole body of electors must steadily rise as we know too well they have, under the ward system, fallen lower and lower.

The benefits of the unification of a city through the abandonment of the strife-breeding ward system are by no means confined to its municipal affairs. The narrowness and selfishness of view cultivated by ward politics extend into and infect every phase of the local life. Business becomes sordidly grasping; society sinks to ungenerous and unhelpful levels and the community becomes less able to undertake those fine, large public enterprises depending for their success upon mutual good-will. On the other hand, the city which develops in its officials and private citizens alike the habit of considering always and uppermost the good of the whole community cannot fail to evolve more and more of that broad, vital public

spirit which attracts population and insures prosperity. The history of the Des Moines plan in the city which gave it its name is a splendid exemplification of the material benefits to be derived from taking a larger view and putting aside petty selfishness.



V

PARTIZANSHIP ELIMINATED

THE unification of the city in its municipal elections would have been incomplete had it stopt with the abolition of the ward system. Quite as real and serious an obstacle to the harmonious development of a sound and invincible public opinion favorable to honest and efficient administration is the intrusion of partizan politics into our municipal elections. The country is fast moving toward the time when the absurdity of nominating candidates for city offices on account of their views on the tariff question or their membership in the republican, democratic or any other national party will be generally acknowledged; but many persons do not yet realize how utterly municipal government conducted on partizan lines has failed, or why we can have no lasting success in our efforts to correct the prevailing evils in our municipal affairs until partizanship is eliminated from our city elections.

Partizan divisions of the voters who at heart desire honest and efficient municipal government operate as disastrously, so far as they go, in dissipating the force

and value of public opinion favorable to good administration as does the ward system. Such separation of the body of well-meaning and relatively intelligent voters into opposing political groups does not break up the electorate into as small fragments, but it alone goes far enough to work disaster; and, superadded, as it is, to the interminable pettiness and confusion resulting from the division of the voters into small constituencies, it contributes materially to the success of the boss and the machine politician in their purpose to "divide and conquer" the forces of good citizenship.

The Des Moines charter does away with the whole machinery of partizan politics as applied to city elections and administration. The evil is destroyed, root and branch, by provisions so radical and sweeping that surprize has often been exprest that a strongly partizan state legislature should have enacted them into law with practical unanimity; the truth being that the long educational campaign which converted the people of Des Moines to the plan enlightened the entire state and created a potential and patriotic statewide demand for its enactment by the second general assembly to which it was submitted, the first one having contemptuously defeated, or rather ignored, a less thorough-going measure.

The party politician's monopoly of participation in the average city government begins, but does not end, with his machinery for controlling nominations. The party caucus or primary at which the nomination is made is in charge of a ward committeeman or precinct or district captain whose position as such is itself a reward for partizan or factional service and a badge entitling him to further recognition. Back of him are a small army of ward workers, more or less respectable as the requirements of "the organization" are merely votes or the violence and fraud which overawe decent voters and neutralize their ballots. In the better wards and precincts, the outer garb of respectability is worn except when the exigencies of the machine require that disguises be thrown off, when the cloven hoof is shamelessly exhibited. In the lower precincts, even the semblance of tributes to respectability is not attempted and "knock down and drag out" is the common rule. And whether the system of nominations was that of the primary election or the caucus and convention, the good citizen has for many decades more or less meekly accepted results vitiated by such methods, sorrowfully regarding them as the best which practical politics could be expected to afford him. The nominations of his own and the other party having been made, he has been

satisfied to vote for that candidate for mayor or alderman whose soundness on the tariff or currency or imperialism appeared to be in the least question. The absurdity of his position has been heightened, all the while, by the growing suspicion that while he and his well-meaning neighbor of the other party were killing each other's votes, the gambler, the law-defying saloon-keeper and the political jobber, tho shouting party war-cries, were quietly voting together and securing the sinister results they desired.

The exclusion of partizanship from municipal affairs is effected through those provisions of the Des Moines charter which require that nominations be made in definite ways new to municipal politics and making the manipulation of candidacies impossible. The law permits any citizen to become a candidate for mayor or councilman. The only requirement is a petition of twenty-five citizens attesting his good character and fitness. This easily obtained document gives him all the advantages gained, under the old system, only by years of "work for the party." His name goes on the ballot as a matter of course and in alphabetical order. Nothing permitted on the ballot indicates any candidate's party affiliation. The primary election records the candidate's general standing with the public as an aspirant for the office he

seeks. It is not necessary for him to spend a dollar. If he be a candidate for mayor, his right to have his name submitted to the voters at the second or regular election depends upon his polling the highest, or second highest, vote at the primary. Neither he nor the public loses any substantial right by his name being dropt if he stand third or lower in the first balloting. It can hardly happen that two unworthy men will receive the highest number of votes in such an open vote of an entire community. If both the nominees are worthy, there can be no mistake in filling the office of mayor at the second election. If one be unfit and one well qualified, the judgment of the entire body of voters is likely to favor the latter. If both be unworthy, the city must accept one and rely upon the four councilmen or upon the right of recall to rectify the voters' mistake. From the beginning, however, the electorate are spared the folly of making choice of an administrative officer on a fundamentally incorrect basis.

If the candidate aspire to a place at the head of one of the four coordinate departments, his ambition can be realized only by the deliberate judgment of the voting body that he is one of the eight best men in the alphabetical list of candidates for those places voted for at the primary election. At both the pri-

mary and regular elections, each voter may vote for one candidate for mayor and four for councilmen; but the eight candidates highest in the first poll are the ones admitted to the second. The voters go to the polls as one body. No appeals to "vote the straight ticket" can be made. Partizanship cannot be worked into the contest. There is no party ticket, straight or otherwise. Individual ambition or desire for public service has brought men of all parties and factions into the contest and partizan alignments cannot be effected. The fact that the successful candidates are so directly responsible to the public and are hedged about with restrictions preventing their political activity destroys all incentives for political machines to try to seize the administration. An organization of the municipality so manifestly in the interest of the prompt and efficient conduct of the public business could hardly be of much use to machine politicians in any event. However that may be, the Des Moines plan has not yet, in any known case, failed to establish the non-partizan business administration and the popular sovereignty it was aimed to bring about.

False issues having thus been kept out of the nomination and election of the council of five and a condition produced in which the voting body must act

unitedly, undivided by ward and party lines, the public sentiment in favor of good administration, by competent men, not only moves onward harmoniously, but the popular vision of the city's needs as to all the general features of the public service inevitably becomes clearer. Current discussion turns inevitably to such questions as the best system of bookkeeping and the most valuable kinds of reports and statistics the city authorities can devise; what sort of police, health and fire protection the municipality should enjoy; how to deal with the smoke, noise and billboard nuisances; how to secure the cleanest possible streets and alleys; what disposition should be made of garbage; what plans to follow in dealing with public works; how to beautify the public parks and cemeteries and secure playgrounds, breathing places and decent conveniences for the people; what policies to pursue in relation to market houses, intramural transportation, and private lighting and telephone services; the proper requirements as to overhead and underground wires; the housing of the poor; proper school facilities for the people and a multitude of subjects long neglected in American cities or thrust aside or half-considered because party interests, real or pretended, have monopolized public attention and distracted the counsels of the people.

Manifestly there is no better promise for the future of American cities than that which was brought into view by the people of Des Moines when they adopted a charter which removed this far-reaching cause of municipal ills; making united and harmonious public action both possible and easy, and insuring the concentration of popular attention upon the things which make for the well-being of the people and the restablishment of their sovereignty.

VI

DIRECT AND UNDIVIDED RESPONSIBILITY ASSURED

No large business, either public or private, can be efficiently managed unless it be organized on correct principles. The essence of correct organization is the asignment of definite duties to well-defined departments, under responsible heads. The lines of demarcation separating the departments must be clear and unmistakable, so as to reduce questions of jurisdiction to a minimum; and when such questions necessarily arise, as they will in the best managed establishments, they must be disposed of promptly, under well understood rules, by superintendents or managers whose authority is unquestioned.

In precisely this respect has the old-fashioned, hap-hazard municipal government which has been modeled after our state and national governments most signally failed. The ward alderman, usually poorly paid and devoting most of his time to his private business, has been little more than a go-between for the citizen of his ward seeking service from a city government organized to evade rather than accept

responsibility. Of organization to transact the public business, there has been scarcely a thought. Everything has been permitted to drift, until officials and citizens alike have looked upon the city government as a victim for all to prey upon, rather than a properly constructed instrumentality for performing normal and well-considered service for the public. In Des Moines under the old regime, as in many other cities still governed under charters of the long-accepted type, the city hall was a circumlocution office, where it was usually impossible to find any official who could do more with any petition or complaint than take it under advisement and refer it to somebody else who was equally unwilling to give it attention. Matters of the most trifling importance, and weighty affairs as well, were thus kept traveling from one office to another for months and even years, the delay arising from no other cause than the defective organization of the working forces of the city.

As, in a private business so conducted, everything goes wrong and much of the time of wrangling heads of departments and subordinate employees is wasted in locating the blame for what is constantly occurring, so in a city whose administrative framework, like Topsy, "jest growed," unsettled questions multiply, officials and employees grow lazy or negligent

and lose their ambition to excel, while those who are naturally unscrupulous find their opportunity in the inability of their superiors or the public to trace wrong-doing to its responsible source. Men who, in a well-managed organization, would be models of efficiency, degenerate, from lack of proper supervision or adequate system or surroundings favorable to good service, into shirks, loafers and grafters. The public, habituated by long use to unsatisfactory service, simply deplores the bad character of its servants and, shrugging its shoulders, thanks heaven that the domain of municipal service is no broader than it is.

The new charter of Des Moines remedies this evil as thoroughly and with as satisfactory results in practise as it does away with the evils and abuses resulting from the division of the community by ward and party lines. The division of the city's administrative functions among four coordinate departments, with a free-handed official to exercise general supervision over them, is an organization inherently correct and tending, by its very structure, to produce good service. It is not pretended that a municipal administration so organized could not be mismanaged. The resources of human stupidity in the direction of doing things badly are too generous to admit of carrying optimism to such an extent as that. But a munici-

pality organized, as by this form, so as to assign certain work to certain departments, locating responsibility in practically every case, can hardly go far wrong in the hands of five officials chosen in this way from the general body of citizens. With the initiative, referendum and recall in the hands of the voters, nothing short of inconceivable wrongheadedness could result in bad management proceeding to great lengths. In practise thus far, the results have been such as wholly to remove any such apprehension. The new system not only attracts abler men into the service of the city, because of the better salaries paid and the evidently better opportunities to render good service, but, by reason of the direct and undivided responsibility it secures, yields vastly better service from men of the same caliber when elected.

By concentrating work and responsibility in the hands of five men, paying them reasonably compensatory salaries, requiring them to devote their time exclusively to the public business and making them responsible for results in their several departments, the Des Moines system first of all informs the citizens just where they must look for attention to any particular matter which they may wish to present to the city government. This alone marks an advance upon the old methods sufficient to justify the adoption of

the new and simple form; for prompt and effective cooperation between the individual citizen and the municipality in adjusting a multitude of minor matters affecting the health, safety, comfort, and convenience of the ordinary man and his family will contribute enormously to the aggregate happiness of the people. This ease of communication between the citizen and the city hall is the least of the advantages accruing from the right organization of the municipality and the resultant responsibility of its officials. The welfare of the community is much more vitally affected by the manner in which its larger problems are handled than by results arising from the adjustment of details in the minor relations of the individual man, woman and child to the city government. When the city succeeds in having such questions as those which pertain to its water supply, street car service, sewerage, police policies and subjects of equal gravity dealt with by really responsible officials, its gains quickly pass all ordinary computation. The Des Moines plan goes as widely and deeply into the possibilities of improvement in these respects as it does into the details of daily administration. An admirable unity of spirit and singleness of purpose in the governing body itself has been found to be possible under the Des Moines system as exemplified in

certain cities. In Cedar Rapids,* an Iowa city which adopted the charter and inaugurated its government at the same time as Des Moines, the council of five holds daily meetings at stated hours and acts practically as one man on nearly all questions, even descending to minute details, tho deferring largely to each member in his own department. The city is therefore able, through the publicity of all its affairs, to maintain a corporate responsibility of the council as a whole, while each member of the governing body gains a valuable insight into all the problems of all the departments. Limits to this method would, however, naturally be reached as the plan was adopted in larger cities, rendering it necessary to rely upon the mayor, through his powers of general supervision, for the coordinating influence so admirably supplied by the council as a whole doing this large work.

During the discussion which preceded the adoption of the Des Moines charter, the fear was exprest that far-reaching evils would result from the granting of large enough powers to the council of five to enable them to proceed with the public business untrammeled by the old-time "checks and balances" on which the citizens had relied in vain, but to which many clung with almost superstitious at-

* See Chapter XIV.

tachment. It was doubted whether the five members of the council would feel the responsibility for which the framers of the new charter had so painstakingly provided. It was predicted that these powers would be abused and an oligarchy established by the five officials trusted with such great powers. Such apprehension, it must be said, however, was in no case exprest by persons familiar with large and successfully conducted business operations. Such persons know how invariably direct responsibility sobers and steadies him upon whom it rests and how certainly well-digested system and proper organization increase efficiency. It need hardly be said that actual results have been disappointing to all—in that the plan has worked better in practise than its most ardent friends expected.

The present chapter deals with such direct and undivided responsibility of the mayor and council as proceeds from an inherently sound and correct organization of the municipal corporation. It should be borne in mind that every other provision of the charter harmonizes with and reinforces its definite distribution of municipal functions. The writers of the Des Moines charter sought to combine democracy and efficiency in the greatest practicable degree; and they succeeded in accomplishing their purpose.

VII

POPULAR SUPREMACY REESTABLISHED

While democracy has made almost unprecedented strides in the United States and throughout the civilized world during the first decade of the twentieth century, it must be admitted that in American cities it has proceeded at a halting pace as compared with its rapid advances in the rural constituencies and, through them, in the general life of the republic. Such progress, too, as it has made in our cities has been in spite of the elaborately republican form of government which they have inherited from the past, with its complicated machinery for preventing encroachments upon each other by executive, legislative and judicial departments. With a council of one or two houses to make the city's laws, a mayor to execute them and a police court or some slight shadow of a judiciary to interpret them, or at least to maintain the semblance of a small republic—each of these departments not only watching the others, but actually serving as a check upon them and maintaining a balance which retarded municipal action sufficiently to

create the appearance of deliberation—we have wondered why our city governments have not given us the excellent results achieved in the national government and most of the states; why, in fact, our failure to make democratic institutions in our cities successful has become a growing reproach in our own eyes and in the opinion of the world.

As the government of our cities came to be regarded more and more as our gravest problem, and as students of this problem, returning from the well-governed cities of Europe, reported municipal conditions putting us more and more to shame, the conclusion was forced upon us that, with all our show of popular rule, there was less of the genius of genuine democracy in our city governments than in those of monarchical Great Britain or even those of imperial Germany, which, in their stern, paternalistic fashion, were conducted with at least a decent regard to the public welfare, while with us the public interests were in many cities derisively trampled under foot by self-appointed bosses and their insolent retainers.

As municipal conditions in this country were more thoroughly investigated and the evils of which we complained traced to their sources, it was demonstrated that practically everything bad in our city politics was the work of the few and not of the many;

that what we were suffering from was not too much democracy, but too little, and that the clearly indicated remedy for our ills was not less democracy, but more. Such conclusions were not the baseless flatteries of demagogs seeking to please a complacent canaille, but the deliberate judgments of men who had observed and tabulated and analyzed the facts of our municipal decadence, traced evils to their roots and located them with the impartiality of science; and who would with equal frankness have told their story if it had put the shoe on the other foot.

Democracy was not without fault in the premises. It had furnished to the boss the material from which he had trained his army of mercenaries, paid out of the public treasury, directly or indirectly, for packing caucuses, padding registration lists, repeating, stealing or stuffing ballot boxes, perpetrating frauds in the counting of votes and doing the thousand and one more or less criminal or disreputable things which, in American cities, are counted as "helping the party." It had, with only occasional outbursts of righteous indignation, permitted these outrages to go on. It had submitted itself to the leadership of men who were openly responsible for such evil practises or who tacitly accepted the rewards of partnership with those who were. It had, above all, permitted it-

self to be divided into hostile partizan forces, under banners proclaiming principles not at all at stake in the city elections and thereby made it possible for bold and unscrupulous minorities to despoil the municipal treasuries. The indictment against democracy was therefore that it was guilty of folly and simplicity rather than of wilful and wanton recreancy to the interests of the community—its own interests.

These things being true, it remained for the cities of the country to find a way out of the morass of corruption, intimidation, confusion and cross-purposes in which they were floundering; to devise ways and discover means whereby democratic simplicity and patriotism might deliver itself out of the hands of the enemy that beguiled and divided it and thereby dethrone and overthrow him. And far more effectually than they themselves realize, the citizens of the good city of Des Moines have accomplished this colossal task.

If the five citizens of Des Moines who framed the Des Moines plan of city government had deliberately gone to work to devise a form of government which should be the nearest possible approach to pure democracy, or direct rule of the people acting in public assembly, they could hardly have approximated that result more closely than they did in the great instru-

ment they prepared. They had, in fact, no such intention. They sought to produce a charter which would enable the people of Des Moines to free themselves permanently from the burdens of bad government under which they had been groaning. They wished, too, to frame a plan which would command the approval of a most critical community, a community which had studied its own municipal problem as perhaps no other American community has done since the colonies composing the confederation worked out the constitution of the United States. They thought best, too, as one of them afterward said, to forestall all reasonable opposition, however radical, and close every mouth that was capable of uttering effective argument against the bill which they were about to have introduced in the state legislature.

The result was certainly ideal from the standpoint of militant democracy. Not only did the new charter provide a method of electing popular representatives to carry on the business of the city whereby the body of citizens could act unitedly—in fact, could not do otherwise so far as the traditional ward and party lines of division were concerned—but it demolished the last shred of the nomination and election machinery by which the citizens had been deluded and

distracted and diverted from their righteous purposes. It went further and prescribed a form of organization so plain and simple that those representatives could not fail to carry out the popular will without the immediate knowledge of every man, woman and child in the city. It thus gave to democracy the ripest fruit of modern industrial development—a correct form of business organization, than which no bank or railroad or trust company has or can have a better.

But it did not stop there. By the initiative, referendum, protest and recall, it put democracy in as complete control of the management of the municipality as human ingenuity could do; providing direct, simple and easily operated instrumentalities for compelling the public representatives to respect the wishes of the people, both affirmatively and negatively, or submit to the penalty of involuntary retirement at the behests of the people, with ways and means for the enforcement of the extremest decree within easy access. If any element of popular supremacy was omitted, the writer has been unable to discover what it is.

Yet the student of the charter will examine it in vain for any undue or impracticable extension of the powers of the people. They are not to do anything

which they are incapable of doing, or which their chosen representatives would do better than a great constituency, acting directly, could do it. The people are to nominate and elect these five members of the council who are to represent them and be so fully responsible to them. They are given power to initiate desired legislation which these five men fail to pass and to compel its enactment or themselves enact it. They may recall any or all of these servants if recreant to their duty. All these are large, simple and direct exercises of power, for which the people are well qualified. And these few, simple powers are ample so far as establishing and maintaining a democratic regime are concerned. They make the people as fully dominant in the city as John D. Rockefeller, Edward H. Harriman or J. Pierpont Morgan ever was in a private corporation.

In short, the framers of the charter paid the compliment to democracy of attributing to it the willingness to rule in a large way and to accept the substance of power and surrender petty exercises of it to subordinates. Democracy can well afford to permit its servants to select their subordinates if it can reserve the right and power to hold the former responsible for results. And democracy never appears to so good advantage as when it cheerfully permits its agents to

select such experts as may be required to do its technical work. Under the Des Moines plan, the public permits its responsible officers to choose engineers, lawyers and other experts and fix their compensation. In so doing, it records a substantial forward step in self-mastery and in demonstrated fitness for the responsibilities of self-government.

VIII

PUBLICITY GUARANTEED BY LAW

THE question, "Who owns the city?" is as old as popular government of cities. It lies at the foundation of the whole argument for democracy in municipal affairs. Mistakes are on record at both ends of the proposition—as shown by the amusing naïveté of the three tailors of Tooley street who passed resolutions in which they figured as "We, the people of England," and hardly less forcibly by the assurance with which men, "clothed with a little brief authority," have either set up the spoken claim, "I am the state," or demonstrated a strong and overweening sense of proprietorship of it in dealing with those temporarily in their power. This trait of human nature has long been prominent in the attitude of city officials toward citizens seeking information at city halls in this democratic country. If not flatly told to go about their business, inquirers have often been given to understand that they were seeking favors at the hands of masters rather than calling for service from those obligated to render it. Even when there

was no motive for concealment, the dearth of reliable information about municipal affairs has been a universal cause for complaint.

Proceeding on their rule of omitting no remedy for municipal ills regarded by respectable authorities as necessary or useful, the framers of the Des Moines charter were as thoroughgoing in their provisions for publicity regarding all phases of municipal business as if the success of the plan depended upon that alone. Every act of the five members of the council from the moment they become candidates until they retire from office is performed in the broad light of public observation. They must publish itemized statements of their campaign expenses and the sources from which the money was obtained; this requirement being taken from the state law. After their election the requirements become very specific. Every meeting of the council at which any person not a city officer is present must be open to the public. Every motion, resolution and ordinance must be reduced to writing and the yea and nay vote upon it recorded. Every ordinance or resolution appropriating money or making or authorizing any contract or granting any franchise or right to occupy or use the streets, highways, bridges, or public places of the city for any purpose must be held open for public inspection in its final

and complete form at least one week before its adoption. A detailed itemized statement of all receipts and expenses of the city and a summary of the proceedings of the council for the preceding month must be published in pamphlet form each month; and at the end of each year the council must cause a full and complete examination of all the books and accounts of the city to be made by competent accountants and the result published in like manner. The charter-makers showed by heaping precaution upon precaution their determination that nothing should be done in a corner.

Like every other vital provision of the plan, the publicity measures are cumulative to other requirements intended to establish public control of every conceivable future contingency; and the prohibition of outlays of money without a week's delay in each case perhaps exemplifies the tendency of reformers to go to extremes. A councilman elected by the people, directly responsible to and removable by them, might be trusted to make some small expenditures, of which he must make a record, without a delay that might work injury. This is not the way of the ablest business man. He relies implicitly upon the definite responsibility he imposes under proper safeguards and gives his department heads generous power to act,

even in the expenditure of money and the signing of checks.

There is no question, however, about the value of publicity as an incentive to good service and a restraint upon abuses of authority. Its power is especially great in countries like ours, where the disposition to defer to the opinion of the majority is sometimes even too strong. The veriest corruptionist in the land wishes to be thought well of by his neighbors and looks forward to the day when, having "made his pile" at the public expense, he may retire to exemplify the virtues he now only imitates. His ostentatious charities, carefully bestowed where a commensurate harvest of votes may be counted upon, reveal his craving for popular applause as truly as they measure his craft. Even his boasted courage in defying popular clamor while delivering his vote, for a consideration, to a public enemy, is a bid for admiration and a confession of his fear of public opinion.

But the fight for good government is more against inefficiency than against outright bribery and corruption; and fortunately, the publicity so fully guaranteed by the Des Moines form of city government is as effectual in raising the standards of efficiency as it is in deterring wrongdoers from carrying their malfeasance to extremes. The comprehensive

monthly and annual reports which the department of finances and accounts is by law required to make public cannot but have a tendency to react favorably upon every part of the working force of the city in all its departments. If these reports are not what they should be, they will inevitably demonstrate that the bookkeeping of the city is not up to the proper standard and lead to a rectification of that most important part of the detail work of the administration. Any business, whether public or private, whose bookkeeping is not simple, direct, complete and illuminatingly helpful to every department it maintains is lacking in one of the fundamentals of success.

The cities of this country are greatly indebted to the New York Bureau of Municipal Research for the practical demonstrations it has furnished that good bookkeeping is one of the surest roads to good government, even under the worst general auspices; and also for its insistence upon the preparation of statistical data based upon and computed in comparable units.

The famous couplet by Pope—"For forms of government let fools contest; What's best administer'd is best"—contains but a half truth, but its kernel of most real value is the warning it conveys to those who, in public and private affairs alike, rely too

implicitly upon forms and systems. In this aspect of the question, it becomes plain that the best that can be said for the new charter is that its establishment of a responsible department of finances and accounts has a necessary tendency to bring about improvements in the city's records and accounts; that the simplicity of the city's organization into clearly-defined departments has a like tendency; and that the requirement of frequent detailed reports and their distribution to the public is a further guarantee that the books and records of the municipality will, as the years go by, be better and better kept, so as to shed more and more light on what the city is doing and prove increasingly helpful in getting the public work well done.

It does not follow, of course, that every city operating under the Des Moines form of government has good bookkeeping. It is possible in a business otherwise well organized and capably manned to find the books and records elaborate, complicated, and technical to a fault, so as to throw "a flood of darkness" on the situation from day to day; and it is well for those who champion the new plan, which they can hardly too confidently and earnestly do, to remember that it is, after all, but a good system, making it much easier to accomplish good results, but not ren-

dering it impossible to go wrong. Indeed, as to its guarantees of publicity as in relation to all its many excellencies, the highest praise that can truthfully be given to the Des Moines plan is that it renders it easier for the people to secure the services of faithful and capable men and for those so chosen to make good records of service. It is not a political cure-all which, once obtained, protects the possessor from all future aches and pains.

IX

THE MERIT SYSTEM EXTENDED AND STRENGTHENED

DES MOINES was under a fairly good civil service law for several years before its reincorporation under the present plan of government. The statute was administered by commissioners appointed by a "machine" city government, but not without the favorable reflex result which even a pretense of regulating tenure by merit insures. The spoils system was by no means a bed of roses for the old-style politician, who was often at his wits' end to find places for all of "the boys" to whom he was indebted for support; and civil service rules, loudly denounced when used as an excuse for failure to dispense desired patronage, tho hypocritically praised in the dress parade of politics, were a convenience gratefully enjoyed when there were more mouths to fill than there were titbits to distribute. The fire department had thus been raised to a creditable degree of efficiency; and the police service was noticeably better than in the days

when every city election was likely to be followed by a change of the entire personnel of the force.

The new charter not only cut away the dead wood of ward and partizan politics and placed elections on the basis of merit, but extended the merit system to practically all appointive positions. It was so framed as to protect all firemen, policemen and other employees who were serving under the old civil service rules from wholesale changes or even from being subjected to new tests. All appointments were required to be made on the ground of fitness alone and removals must be for cause, duly stated, with the privilege of a hearing before the head of the department and an appeal to the council. There were, in fact, but few changes; and, under the better conditions speedily evolved after the new government was installed, in the cleaner and clearer atmosphere of a genuinely reform administration, men whose service had been but indifferent became alert, faithful, diligent and efficient servants of the city.

The charter provided for the appointment of a new civil service commission, holding over in part from one administration to another, because the commissioners' term is six years while that of members of the council is two; and the terms were so arranged that one must retire or be reappointed every two years.

Competitive examinations, of a practical rather than technical character, are required for the great body of city employees and the commission must furnish lists of eligibles from which the working forces of the departments are replenished. There was less constructive work for the charter committee to do in this than in certain other directions, but what it did was done well. No ground was left for the spoils system as a system to stand upon, altho, of course, it would be impossible to devise a scheme of civil service regulations the spirit of which a determined spoilsman could not at times disregard or bend its provisions to his purpose. The task of the charter-makers here, as elsewhere, was lightened by the fact that the entire structure of the plan the public committed to them to make was favorable to fidelity and efficiency in the public service.

It is needless to dwell upon the reasons which prompted the citizens of Des Moines to extend and fortify the merit system already in operation in their local administration. Whatever may be thought of the Des Moines plan of banishing partizanship from municipal elections, and unifying the city constituency by wiping out ward lines for all but minor purposes; and however much those unfamiliar with its workings may question the utility of the double city election and

other peculiarities of the Des Moines system, few will be left to assail that feature of the charter which insists upon merit as the sole basis of appointments and holds that ordinary municipal employees should be removable only for cause. Civil service reform is now thoroughly intrenched in the favorable opinion of the American people and is destined to gain rather than lose ground in the coming years.

How perfectly the merit system harmonizes with every other salient feature of the Des Moines plan will readily appear. Every change required in the introduction of the new charter cries loudly for good service and looks for the man or woman who can render it instead of regarding the office as a benefit to be bestowed upon some person, whether as a reward for political service or not. The point of view is diametrically reversed. The ward worker has ceased to be useful or needful and the occasion for remembering him to the detriment of the public service has passed. He is no longer feared, or the candidate who feared him has dropt out of the public view. The press no longer gossips about the distribution of party spoils or assumes that this or that offensive partizan will be taken care of when the plum tree is shaken. Local discussion is now upon improvements in the public service that are looked for. The very movement for a

change of charter and the agitation attendant upon its adoption have educated the community to believe that better things are possible under a more directly responsible and better organized government. Othello's occupation is indeed gone.

And while a broadly sympathetic society cannot look with indifference upon the misfortunes of those who are excluded from public employment by the stricter tests which the merit system applies and will look far for ways and means of opening avenues of opportunity for all, weak and strong, fit and unfit, it is a perverted sympathy which would make the public service a refuge for the weak, vicious and incompetent. As the functions of our local, state and national governments are enlarged, it becomes more imperative that character and competency be the sole qualifications for office; and this not only because the good of the service requires it, but because it is right that the public service be kept open, on just and equal terms, to the deserving of each rising generation, thereby broadening the real opportunities of all. It is wrong that selfishness and corruption should use public patronage as a form of bribery, thereby dulling the prevailing official sense of duty. And the demoralization and final collapse of our institutions would surely follow a reversion to the vicious doctrine, "To the victor belong the spoils."

We escaped the blight of the spoils system none too soon. A well-governed society, too, can and will be more efficient in caring for all its unfortunates than a regime permitting corruption of the fountain-heads of government and fostering debased ideals of citizenship and service.

X

FRANCHISES SAFEGUARDED

It has been a truism for many years that the municipal ownership or operation of gas, electric light, and water works, telephone systems and street railroads was attended with great dangers so long as the civil service of our cities was on a spoils basis. With equal cogency it might be said that the private ownership of these public services was a source of peril so long as the civil service was dominated by the spoilsman. The city of Des Moines had not at any time for at least a quarter of a century been free from some disturbing question arising from its relations with the private corporations supplying it with water, gas, and electric light and power, and conducting its street railroad service. Questions of rates, service, and facilities and relative to the granting, renewal and extension of franchises, assessments, taxation, reports of earnings, issuance of bonds and stocks and a multitude of other matters constantly recurred. Loud and bitter complaints were made of the participation of these corporations in municipal politics and the corruption by their repre-

sentatives of voters, officials and newspapers. There were repeated exposures of the actual or attempted payment of large amounts of money to editors and aldermen; and the suspicion that much was going on that did not come to the surface was constantly in the public mind, angering the citizens and producing disgust and discouragement in the hearts of many. The cynical assertion of one local "magnate" that he did not take part in city politics because he had found it cheaper to buy aldermen after they were elected than to elect them was often quoted and the sudden conversion of pretended reformers in the old city council to views favorable to this or that corporation cited in proof that votes in the council chamber were bought and sold.

Indeed, the real alignment of the membership of the city councils for many years had been sought back of their party affiliations in their attitude for or against the public service corporations, all of which were accused of being in alliance with the local political "machine," city, state and federal, for the purpose of controlling and despoiling the city.

It will be noted that the classification was rawly "for" or "against" these corporations, and bore no close relation to the justice of the matters in question. It was the bane of the situation that the position of

the official who simply desired fair inquiry into the facts, in order that ordinary justice be done, was practically untenable, and that the large-minded man who maintained a judicial attitude fell under the same odium and suspicion as the sandbagger who, having insincerely introduced his rate-reducing or franchise-cancelling or assessment-raising measure, began to maneuver with reference to a financial consideration for its abandonment.

It goes without saying that this was an intolerable condition of affairs. It is a debatable question, perhaps, whether cities should entrust their water supply or other indispensable service to profit-seeking corporations; but, the franchise once granted, no reasonable person will deny that those who have invested their capital in such enterprises should be treated with the same fairness as other investors, and that they should be opposed only in wrong-doing. To be "for" or "against" them on general principles is absurd. Yet this was the status of affairs in Des Moines for a generation; and it is pretty nearly the average situation in the cities of this country which are in contract relations with their public service companies and have to transact business with them through the typical American city council.

The new charter of Des Moines put the ax directly

to the root of this evil, first, by reorganizing the city government so as to substitute a directly responsible council, chosen by and representative of the entire city, for the irresponsible ward representatives it had formerly submitted to; secondly, by reserving to the citizens, for use in emergencies, every power of action upon such questions and also that of recalling the unfaithful member of the council, and thirdly, by a direct provision that no franchise should be binding unless first endorsed by popular vote.

Opinions may differ as to the relative value of the multitude of precautions thus taken to prevent the bartering away of valuable privileges in the city's streets; but there can be but one opinion as to the adequacy of all of these safeguards combined for the protection of the public interests. At the heart of it all, however, can be found incalculable benefits to both sides of the controversy. The people will profit by the securing of their rights for all future time and by the establishment of their local government on a foundation making it useless for any private interest, however powerful and wealthy, to attempt to corrupt or control it. The corporations will derive the corresponding benefit of being relieved of much unjust odium and suspicion and by the public's disposition to accord them voluntarily the justice it would not per-

mit them to obtain by corrupt means or by interference in elections.

The improvement in the relations between the city and the franchise corporations which may be inferred from the very structure of the new government is plainly visible in the course of events in Des Moines. Believing in their own representatives at the city hall and at the same time knowing that betrayal of the interests of the city could not now be accomplished, the citizens no longer show alarm or express suspicion when city officials confer or negotiate with representatives of the public service corporations. Nor is there, as there formerly was, a disposition to demand hostility to these interests. The people are experiencing in their own sentiments the disposition to moderation which the reality of power always imports. Democracy cheated out of its birthright is dangerous to friend and foe alike. Democracy enthroned is tolerant, patient and just.

It is easy, in the enthusiasm begotten of a change that is radical and far-reaching in its beneficence, to overestimate the importance of its contribution to human advancement. As city after city, in all parts of the country, awakens to the opportunities for municipal betterment demonstrated in the Des Moines plan, its friends are cheered by larger and larger visions of

blessings to accrue to millions of dwellers in cities by a reform so genuine and thorough. In this optimistic frame of mind they perhaps expect too much; but they certainly do not greatly exaggerate the benefits to be derived from a radically democratic city charter in settling the vexed question of how to deal with the public service corporation. The present constitution of the United States does not surpass "the rope of sand" it superseded more distinctly than the Des Moines plan excels the older types of city charter in making possible the solution of such problems.

XI

CAUSES OF CORRUPTION REMOVED

Des Moines, tho not an exceptionally badly governed city under the old regime, does not have to go outside its own history for examples of nearly all kinds of municipal corruption. By prohibiting practically everything its machine politicians had been doing for years, the charter committee were able to draft a pretty comprehensive code of laws against the whole round of prevalent and possible malfeasance. Several members of the last city council before the new government came in were in profitable contract relations with the public service corporations; and the practise was unblushingly defended in the council chamber by its beneficiaries. In the then existing state of public sentiment, many saw no impropriety in these officials accepting lucrative contracts from concerns which might shortly be before them with applications for valuable concessions or more or less questionable claims for large amounts of money. The acceptance of free service or special rates from these corporations was no uncommon practise among the

aldermen. It was more than whispered that members of the city council were directly or indirectly interested in contracts for labor or materials for the city. The methods, too, by which certain aldermen secured and held their places in the council were open to censure. Bribery of voters was shamelessly practised. Ballot boxes had been stolen or unlawfully exposed to manipulation before the count of votes. The machinery of elections and nominations was often kept in the hands of reckless and unscrupulous men and in some cases of actual criminals. Judges of election or agents of "the city hall ring" unlawfully admitted to seats beside them were seen to "kill" ballots unfriendly to the ruling cabal by putting additional pencil marks upon them so that they must be thrown out. Returns from the "tough" precincts were, in close elections, held back until the machine could determine how many votes were needed to hold it in power; which number, with a safe margin, was suspiciously forthcoming. The scandal of aldermen accepting contracts which a decent regard for the proprieties would have impelled them to refuse became so glaring that the citizens organized a "scratchers'" movement with "no contractors in the council" as its war cry and urged that partizanship be dropt for once and the public interests treated as paramount

to political expediency. The response far exceeded the expectations of the city hall element, and it was believed that a reform mayor and council were elected; but the election machinery was in the hands of those who defended the offensive practise; and, after a few hours' ominous silence, it appeared that the ring had elected its candidates for mayor and a majority of the aldermen, by small but sufficient majorities.

The "scratchers'" movement educated the city to look upon partizanship in city elections as folly; and the methods by which it was defeated aroused the community to a righteous determination to make an end of the whole corrupt system. The defeat of the reform movement at that time was, in the long run, most fortunate. Had it succeeded, it can hardly be doubted that a moderate measure of charter revision, based on compromises, would have been accepted. Baffled for the time being, the supporters of good government gained ample strength to put through a radical measure. They gained, too, clearness of vision as to the futility of half measures. In nothing was the campaign for a new charter more fortunate than in the delays which retarded it until the times were ripe for real, thorough, far-reaching reform.

The new plan placed the stamp of illegality upon

corruption by indirection as well as upon overt bribery and the grosser forms of official misconduct, establishing in due form higher standards than the citizens had been able, under the old condition of things, effectually to enforce. Stricter state laws, enacted about the same time, exacted detailed reports of campaign expenses, giving both the source and the items of outlay; and limited permissible outlays to printing, stationery, postage, hall rent, clerical assistance and other really legitimate expenses incurred in informing constituencies. These and added like provisions were enacted into the charter by description and others carefully exprest in detail. The owning of the stocks and other securities of public service corporations and the acceptance of contracts or gratuities from them were made disqualifications for office. Interest of city employees, direct or indirect, in municipal contracts was forbidden. The election laws were reenforced by every conceivable requirement and proviso looking to decency, propriety and civic righteousness. By an oversight, the registration laws of the state were not specifically made applicable to the election upon the adoption of the charter, and this mistake nearly led to shipwreck of the entire movement; for, a few days before the charter election, it was discovered that the voting lists had

been padded to the extent of thousands of names, including those of non-residents and men long dead. Discerning in this bold piece of criminality a purpose to carry the election against the new plan by the votes of repeaters and by resorts to other illegal practises, the citizens were aroused to unexampled activity. In a storm of public indignation, the voting lists were thoroughly purged, with the amusing result that the city hall element, before confident of success, practically gave up the battle. Men of the highest prominence in local affairs, who in the past had been content merely to deposit their votes on election day, accepted assignments as watchers at the polls and confronted the "gangs" of the public enemy with a courage and determination which assured the triumphant success of the popular cause.

In respect of the cure of corruption, the general provisions of the new form, the strength, directness and simplicity of its essential features and the efficiency it so strongly promotes contribute as powerfully to the end aimed at as do the remedial agencies directly called into being for special ills. The system being right in principle, doubly reinforces every particular defense provided against bad politics of every description. This is the best possible assurance that the Des Moines charter will, like the federal constitu-

tion, prove elastic enough to cover a thousand emergencies not thought of when it was adopted.

It is too soon accurately to measure the fruits of the new system. It has been in actual operation only two years and cannot be said to have been adequately tested; but, in a large way, the principles it embodies are demonstrated by a great variety of experience; and enough is already known of its splendid results to justify the belief that it will, with due diligence on the part of the citizens, prove a lasting boon in eradicating municipal corruption.

XII

THE PLAN IN OPERATION

THERE is no doubt in the mind of any unbiased observer of conditions in the city of Des Moines before and since the taking effect of the new plan as to the favor with which it is regarded by the citizens. The general opinion is that, if it were put to a vote now, after the lapse of two years, there would be practically no votes against its continuance. The people are surprized and delighted at the excellence of the results in all respects. Friends of the plan who in fairness conceded, in advance of the actual experiment, that weaknesses would probably develop under the tests of experience, are compelled to say that no such flaws have as yet been discovered; that it is good and wholly good. One of the ablest members of the first council, an expert in municipal matters, was of the opinion, three months after his term of service began, that a few slight changes would improve the instrument; but at the end of a year, he acknowledged that he believed the plan was better just as it came from the hands of its framers. The only mentionable changes made

by the last general assembly of the state were one amendment strengthening the recall provision by making it more specific * and another extending the privilege of adopting the Des Moines plan to cities of a population from seven thousand to twenty-five thousand, the smaller cities being permitted to elect a council of three members, and grade down the salaries paid to figures commensurate with their means.

The most noticeable effect of the change of system in the city of Des Moines was a remarkable improvement in the methods and results of street cleaning; while the alleys, previously noisome receptacles for garbage and filth of every description, were for the first time kept clean. The placing of signs naming the streets at every crossing, a convenience clamored for for years in vain, was accomplished without delay. The city had had no uniform policy regarding sidewalks, signs, areaways, depositing of mercantile wares and building materials on sidewalks and scores of like matters; favoritism and undue harshness alternating as this or that official accepted or refused to exercise jurisdiction respecting them. Now, however, there was a firm, wise, fair and moderate policy, commanding the cheerful acquiescence of all and enhancing the neatness of the business streets. The

* See Appendix B, page 218.

wrangle which had been going on about the permission or prohibition of open gambling for many years gave way to a settled policy of law-enforcement. A red-light district owned and controlled by a "social-evil trust" of appalling cruelty, greed and wickedness was turned into a respectable neighborhood by the vigor and vigilance of a well-directed police force. The books and records of the city were brought up to date and kept in intelligible form. The appointive offices of the city were promptly and without "deals" or scandal, filled with clean and competent men. The positions calling for expert technical service, such as those of city engineer, corporation counsel, and solicitor, were filled to the extreme satisfaction of the best judges of competency and with general approval as well.

Above all, the general administrative work of the city and also the daily routine of petty and unexpected affairs affecting individuals having petitions to offer and complaints to make, received in all departments practically immediate attention. "We never saw it on this fashion!" was the constant exclamation of the people, used to being sent from pillar to post unendingly with kindred matters.

As to the work of the employees of the city and contractors having relations with it, the unanimous

verdict has been from the outset that the city was never so well served and its right to receive the worth of its money so uniformly enforced, or with so little friction and irritation.

At the end of the first year, it was found that for this superior service the city had paid less by $182,-949.65 than inferior results had cost it during the last year of partizan rule and ward politics; the saving in the better work done by contractors on improvements paid for by the owners of abutting property being no doubt greater than that revealed in the city's direct operations.

The relations between the city and the franchise-holding corporations became calmer, friendlier, freer from mutual animosities and more businesslike.

The advantage of having five responsible men, fairly paid for their whole time, daily at the city hall were found to be very great.

The unity of spirit resulting from organic unity was an intangible but immensely valuable outgrowth of the change. The people took on new hope and grappled with new and larger enterprises; and additional population was rapidly attracted to the city. The new buildings and other improvements were on far the largest scale ever undertaken. It was as if the city had been freed from bondage.

At Cedar Rapids, operating under identically the same charter, results were in every respect equally good and in some directions better, the first council elected there having been more uniformly able and capable even than in Des Moines, tho receiving, in the smaller city, lower salaries. Given a disposition to do their duty and ordinary ability, and the system of its own force and merit appeared to bring good service.

The election provisions worked most admirably. Not for a generation had so little money been spent and never had the citizens been able to give their attention so undividedly to the prime issues of a municipal campaign, the honesty, capacity, and fidelity of those seeking public place. In some cases, perhaps, the best men were not chosen; but all felt that the election had been an ideal one, and, when the successful candidates were put to the test of service, that the city had never, in all its history, fared so well.

XIII

HOW AND WHY SUCCESS WAS WON

THE general movement for better government in American cities is new. A quarter of a century will cover most of the distinct and conscious efforts of the American people to learn how and why European cities had cleaner streets and better municipal service generally, at less cost, than we had; and how and why we were egregiously failing, to put it in our favorite way, to get the worth of our money from the city taxes we paid. The success of the city of Des Moines in evolving a plan regarded by most experts as the best and most promising scheme for the government of an American city is therefore an object lesson of national value at this time when improvement in municipal administration is more prominent in the public mind and pressing harder on the public conscience than any other question.

For the encouragement of those who, in other cities throughout the length and breadth of the land, are meeting defeat after defeat in contests with the

"machine" (which word best expresses and typifies the public enemy generally), it can be said that no fight for good government ever made in Des Moines was really lost, temporary appearances to the contrary notwithstanding. Every battle was lost, but the campaign won. The people of the city never entirely lost heart. The bulldog tenacity and determination with which they clung to the hope that somehow, this time, or some time, they would achieve the longed-for result were really amazing when the facts of the entire movement are reviewed. It was, after all, the instinctive faith of a fine American community in itself —its intuitive vision of possibilities of good for itself as a continuing entity—its acknowledgment of obligation to coming generations.

The time came, at last, when the discipline of a score of conflicts had hardened the citizens for a final struggle for the great desideratum. Galveston had pointed the way, by establishing what is known as the commission system and demonstrating its remarkable adaptation to that admirable city's conditions. Much that was essential was in the Galveston charter—not quite enough for general application, but very, very much. There Des Moines found her cue, through the farsightedness of one of her wealthy, influential and public-spirited citizens.

James G. Berryhill of Des Moines, a citizen having business interests in Galveston which frequently called for his presence there, was imprest with the satisfactory results of the commission plan in the southern city. He mentioned the matter to Mr. Harvey Ingham, editor of the Des Moines *Register and Leader,* who suggested that Mr. Berryhill, during his next stay at Galveston, obtain definite data and submit them to the *Register and Leader* for publication. While Mr. Berryhill was making his inquiries, it was thought best that his report be submitted before publication to a public meeting, to be called by the Commercial Club, an organization of business men maintained for the promotion of the manufacturing, commercial and general interests of the city. The meeting was held and the statements of Mr. Berryhill and his earnest appeal for early but deliberate action aroused an interest and enthusiasm among his auditors auguring well for the movement then and there formally inaugurated and, in a preliminary way, organized. Other meetings were held and a standing committee of two hundred citizens named. A subcommittee was appointed to draft a new form of government for the city, with the understanding that the Galveston charter was to be broadly followed as a model. This duty was discharged and after much

discussion the report amended and a committee named to present to the legislature then in session, a bill empowering certain cities to reincorporate under its provisions. The bill was introduced and referred to the appropriate committees of the two houses. There, after hearings which developed the fact that the people of Des Moines were divided on the question, the political machine mercifully permitted it to die a natural death, without subjecting its sponsors to the humiliation of seeing the slaughter which evidently awaited its "visionary" provisions on the floors of the legislature, at the hands of puissant champions of existing conditions.

At this juncture, the possibilities of the press for service of the highest value to a democracy were signally exemplified. To the popular view, the defeat of the bill was just one more instance of the folly of reformers in overdoing things. Had the citizens' committee had the good sense to report a measure embodying a few slight and gradual changes in the existing laws, which were good enough if properly administered, instead of a potpourri of radical and visionary schemes of idealists, they could have "gotten something" from the masters of the state. Why would not people remember that all legislation was necessarily the result of compromise and accept a half

loaf instead of making themselves ridiculous by asking for a whole one?

Not thus Mr. Ingham, the editor of the *Register and Leader.* He did not accept defeat as final. He did not raise a hue and cry against the men whose arts of the lobby had throttled the bill. He simply went on, for a year, printing articles of his own and others, from every possible source, explaining the Galveston plan of government and informing the people of the city and state about its practical workings. The letters, magazine and newspaper articles, interviews and editorials which he printed about this apparently badly defeated measure would fill many volumes. And Mr. Wm. G. Hale, editor of the *News,* and Hon. Lafayette Young, editor of the *Capital,* were equally loyal and zealous.

The citizens were tremendously interested, but not all convinced. There grew up a body of advocates of what became known as "The Indianapolis plan" of government, headed by a mayor of large powers and definite responsibility, with a council elected by the city at large, but limited to legislative functions. The state league of municipalities came into the conflict with a proposal for sundry reforms, which, a few years before, would have been deemed radical, but, compared with the new program, was moderate, sane

and practical. The city hall pinned its faith to this measure, but was justified in hoping that, in the multitude of counsels, all action would be defeated.

The general assembly convened again in January, 1907. The controversy desired by the opponents of thorough reform was proceeding vigorously, Mr. Ingham's newspaper, now ably reenforced by the other newspapers of the city, all the while carrying forward his stubborn campaign of education. There was general disgust and almost despondency among the advocates of a new charter because of the persistent divisions among the citizens, and the outlook was anything but cheerful.

A correspondent of one of the newspapers now proposed a novel plan whereby harmony of action might be secured. The proposal was that a joint discussion be held in some public place by Mr. Berryhill as an advocate of the Galveston plan and Mr. W. H. Baily, a well-known lawyer, as a supporter of the Indianapolis plan; a large committee of representative citizens to hear the debate and, after its conclusion, take a vote on the question of adopting one of the two plans or continuing under the existing charter; all participating in the affair to bind themselves to act together in favoring such form of charter as the judges should by majority vote favor.

Some light was thrown upon the state of public sentiment at this period by a referendum of a selected list of prominent citizens, collected by the Des Moines *Register and Leader.* It showed 117 favoring a change of some kind in the city's charter; three opposed to any change; 62 for the Galveston Plan; 26 for the Indianapolis Plan; 13 expressing no choice; 16 for eliminating partizanship; 24 for the proposed Berryhill-Baily discussion and two opposed to turning the city into "a debating society." The *Daily Capital* took a referendum on a larger scale which resulted in 1,094 votes for a change; 23 against any change; 606 for the Galveston Plan and 412 for the Indianapolis Plan.

The suggestion of a joint discussion met with instant favor and was carried out. The president of the Commercial Club named a committee of three hundred, representing all elements of the population and insuring overwhelming support for the victorious plan, whatever it might be. The debate was held in the presence of a large audience, the committee of three hundred occupying seats apart and giving most earnest attention to the speakers' arguments.

The decision was for the Galveston plan by a large majority, and the minority, which numbered many influential citizens and represented perhaps thousands

more, gracefully and in entire good faith accepted the decision and heartily joined the majority in the work of preparing what is now known everywhere as "the Des Moines plan;" pressing it, through a now thoroughly awakened and united public opinion, to a surprizingly unanimous enactment by the general assembly and, over a bitter and unscrupulous opposition, to adoption by a fine majority, by the citizens.

The charter committee at this time consisted of Messrs. James G. Berryhill, William H. Baily, I. M. Earle, John M. Read and Silas B. Allen. They had the wisdom and courage, upheld as they were by an educated and uncompromising public opinion, to prepare a much more radical charter than that which earlier had met with defeat. They saw that the time had passed for the half loaf and gave Des Moines what it proudly believes to be the most valuable charter possessed by any city in America.

XIV

THE PLAN ADOPTED AT CEDAR RAPIDS

An interesting and important exemplification of the Des Moines Plan is in progress at Cedar Rapids, an Iowa city which, according to the state census, had, in 1905, a population of 28,759. The experiment is demonstrating the applicability of the new method of organizing cities to places of smaller population than Des Moines—cities just beginning to show the effects of municipal mismanagement. The fact that Cedar Rapids has a large foreign population of a single nationality introduced into the problem as there exemplified a factor noticeably absent in the Des Moines situation. The federal census of 1900 accorded Cedar Rapids a population of 25,656, of which 2,164 were natives of Bohemia and 4,646 born of Bohemian parentage, a total of 6,810; but as the Bohemians are a race tenacious of their language and customs and do not intermarry with their American neighbors to a large extent until the third generation, it is safe to estimate the total Bohemian population of

Cedar Rapids at about one-third of the whole number of inhabitants. The attitude of this large and clannish element toward the commission system both at the special election for the adoption of the charter and in the selection of the first commission caused complications likely to arise in many other cities in the initial stages of the change to the new system; and the success of the people of Cedar Rapids in coping with these difficulties as they arose will afford encouragement and instruction to the people of other cities which may contemplate making changes in their charters.

The special election by which Cedar Rapids came under the new law was held on December 2, 1907. The Cedar Rapids press had supported the enactment when pending before the legislature; and the sentiment of the English-speaking majority of the inhabitants of the city had been educated into willingness, if not eagerness, to profit by its provisions. Not so with the Bohemians. When the special election approached, it was found that the Bohemian voters, who had been suspicious of the measure from the beginning, were becoming openly hostile to it. It transpired that a newspaper printed in Chicago in the Bohemian tongue, with one page edited by a Cedar Rapids Bohemian of extremely radical views, had

warned the voters of that race that the commission system was a step toward the oppression to escape which they had left the old country; that under it, their liberty to eat, drink and maintain their national customs would be curtailed; that the clergy of the city and other believers in puritanical restrictions on their personal liberty were for the proposal, and that it would doubtless deprive them of the large influence they had long enjoyed in the government of Cedar Rapids, and the generous official patronage which had been theirs.

In vain did those Americans who had acquired influence with these people plead the other side of the case. The Bohemians stood like a stone wall against the charter, and, with the city hall elements as alert, unscrupulous and aggressive allies, almost succeeded in defeating it. It was carried by a bare majority of 33 on a light vote—1,900 for the charter and 1,867 against it.

The Bohemian editor had not yet exhausted his resources. When the primary election was about to occur on March 16, 1908, his journal advised the Bohemians to vote only for Bohemian candidates for the council. Deeply stirred as they had been by the agitation in December, and still apprehensive that their liberties were about to be taken from them, they

readily responded. An agreement was made by which the mayor whose term was about to expire was to be supported for the same office under the new government, together with two Bohemian candidates for councilmen, the fourth and fifth places on the ballot to be left vacant by the voters. To make sure that this plan should be carried into effect, the city hall and Bohemian leaders supplied the Bohemian voters with sample ballots marked exactly as agreed upon.

The returns of the primary election were a startling revelation of the extent to which the vote had been manipulated. The vote of the Bohemian wards was short by six hundred votes of what it would have been had every voter cast his ballot for five candidates.

There had been nine candidates for mayor and forty-eight candidates for councilmen before the primary; and the American voters had scattered their votes through the entire list, most of them, in a spirit of liberality, voting for one Bohemian. The Bohemians succeeded, by their "plumping" policy, in geting their entire slate on the final ballot, together with one more representative of their race who, without the sanction of their leaders, had been an aggressive candidate and secured a large support. The ten highest

names on the list of candidates voted for at the primaries were:

For Mayor.

JOHN T. CARMODY, 1,528.
GEO. S. LIGHTNER (retiring mayor), 1,670.

For Councilmen.

D. FEIEREISEN (Bohemian), 1,478.
JACOB A. HILDEBRAND, 1,037.
CHAS. D. HUSTON, 1,982.
HENRY S. KEFFER, 1,370.
MATT J. MILES, 1,099.
ERNEST A. SHERMAN, 1,002.
W. H. STEPANEK (Bohemian), 1,153.
V. E. LANE (Bohemian), 1,115.

If this election had been final the city hall and Bohemian alliance would have been successful; but here the double election provision of the plan came to the rescue and enabled the friends of good government to marshal their forces and win a notable victory. The charter itself practically compelled united action.

The issue of nationality had been forced upon the city by the Bohemians and the old regime. "If we are to be barred from representation because of American parentage and the language taught us," said a local newspaper, "it is time to know the truth

of the matter." The native-born population resolved to assert themselves. Sample ballots bearing the American flag were distributed throughout the city. A tallyho decorated with flags and bearing patriotic mottoes was driven about the streets. There was a strong determination to stamp out the race issue once and for all by defeating those who had raised it. One of the daily newspapers still insisted that the Bohemians should have one councilman notwithstanding their ill-advised attempt to seize control of the commission; but this view found little favor. The general voice was for an all-American ticket and an emphatic rebuke to the alliance.

One danger seemed to threaten this movement. The Americans had six candidates on the ballot—one for mayor and five for councilmen—which involved a certain scattering of votes, while the opposition had but four candidates. This was disposed of by inducing Mr. Hildebrand, one of the American candidates, to abandon his candidacy for councilman and become a candidate for an appointive office.

The alliance leaders shrewdly announced their intention of supporting Huston and Keffer, thus showing their willingness to abandon Vane, the Bohemian, who had succeeded independently of them in getting his name on the final ballot. This bid for American

support was resolutely rejected by the native American voters.

The result of the final election was an overwhelming defeat for the city hall and Bohemian slate. The vote was as follows:

For Mayor.

JOHN T. CARMODY, 3,949.
GEO. S. LIGHTNER, 2,183.

For Councilmen.

CHARLES D. HUSTON, 4,131.
HENRY S. KEFFER, 3,965.
MATT J. MILES, 3,810.
ERNEST A. SHERMAN, 3,505.
D. FEIEREISEN, 2,000.
V. E. VANE, 1,940.
W. H. STEPANEK, 1,784.
JACOB A. HILDEBRAND, 1,342.

The alliance lost all its men. Every successful candidate was an American. One was a Catholic and four were Protestants. Three were republicans and two democrats; but partizanship was never even mentioned during the contest. The newly chosen mayor, Mr. Carmody, since deceased, was a successful iron founder; Councilman Huston, an employing printer who had at different times served the city ac-

ceptably for many years as mayor or councilman under the old regime and is an expert in municipal matters; Councilman Keffer, a union workingman of good character and ability, who had previously served as city recorder; Councilman Miles, a young real estate loan agent, and Councilman Sherman, the publisher of a local newspaper and a reform member of the retiring council. The commission as a whole was nearly ideal in business capacity and representative character and every member personally above reproach.

It was a well-controlled and discriminating movement. There was no denunciation of the Bohemians as a race, but generous recognition of the general good citizenship, thrift and home-keeping virtues for which they are noted. When the election was over, the Bohemians were as liberally recognized in the appointive offices as they had been in past years. One compliment which especially pleased them was the appointment of a Bohemian young woman as city treasurer, a place for which a good record in a subordinate place in the office proved her fitness.

The new commission was confronted with difficulties peculiar to cities organized under special charters. Des Moines had been organized under the general municipal incorporation law and her transition to the new modus operandi was simple and easy, the char-

ter law being framed with special reference to the general state law. Cedar Rapids, on the contrary, was compelled to enact a large number of new ordinances, changing elective to appointive offices, her marshal, clerk and other officers being elective, whereas these offices had been appointive in Des Moines. Seventeen days were required for the lawful enactment of these ordinances which prevented the prompt transference of many of the municipal functions.

An epidemic of small-pox had recently broken out in the city; and, the retiring administration, evidently fearing to offend ignorant voters, had refused to enforce quarantine regulations, thereby permitting the spread of the infection. No meeting of the board of health had been called since October and it was now April. To add to the embarrassment of the new government, a mad dog had broken loose and bitten numerous dogs, cattle, horses and swine, causing alarm among the people.

Handicapped tho it was by legal impediments to action, the commission grappled with the situation and promptly conquered it. Quarantine was rigorously enforced and the small-pox epidemic stamped out in record time. Sixty animals infected with rabies were killed and that peril summarily removed.

Altho beset by a multitude of applicants clamoring for appointment, the commissioners disregarded "pulls" of every kind and made practically every selection on merit, giving the preference to applicants who had had experience in city affairs.

It was in appointments to office calling for expert knowledge that the Cedar Rapids commissioners most convincingly demonstrated the superiority of the new system. For city solicitor, they went outside the list of more than a dozen lawyers who were candidates for the place and induced John M. Redmond, one of the foremost lawyers of the city, to accept the position. In like manner, they filled the offices of city engineer and marshal; selecting for the latter a vigorous and competent young man who had seen service in the regular army, but who had not applied for the place, and for the former an engineer of municipal experience and high character, not a candidate, but splendidly qualified to give the city expert service.

Expecting much from a municipal organization which on its face promised the utmost efficiency, the people of Cedar Rapids were not disappointed. The business of the city was for the first time done promptly and with entire freedom from graft of every description. The city government had not been notoriously corrupt or exceptionally inefficient,

but it had been impossible to get business attended to in a businesslike manner. Complaints of defective crossings or sidewalks, faulty grades, damage by floods, perils to the public health, and a thousand and one matters important to the people's comfort and convenience had, in the hurry incident to having business transacted by ill-paid aldermen who had their private affairs to look after, been neglected or postponed for weeks, months and often years.

Now, all this was changed. The new council met daily. Its members, competent business men, gave their entire time to the city. Complaints received attention in all cases within twenty-four hours and usually on the day they were filed. Not all requests were granted, but there were no vexatious delays in reaching a decision. The matter requiring attention received it immediately; going to the responsible head of the department to which it belonged and there being no question as to who had jurisdiction.

Good business methods were adopted in every department of the municipal service. An expert accountant was immediately employed to straighten out the city's bookkeeping. All just bills against the city were promptly paid and the cash discounts taken. The banks were required to pay 2 per cent. interest on daily balances in favor of the city; and large

amounts of city funds not likely to be used for considerable periods were put out as time deposits drawing 4 per cent. interest. One deposit of $100,000 for three months, distributed among eleven local banks, alone brought the city more than double the amount of interest it ever received on its funds in an entire year under the old negligent methods.

As in Des Moines, there is an almost entire absence of speech-making at the council meetings. The commissioners sit around a table like the directors of a private corporation and transact business in exactly the same way. There is usually no audience. The council does not avoid publicity, but its methods do not attract crowds. The people are satisfied with what is doing and stay away. More business is transacted in one hour than could be done in ten in the old way.

The councilmen have no secrets from one another. On matters involving less than one hundred dollars, each commissioner acts on his own responsibility, but takes care to let his colleagues know what he has done. All large questions are decided by the council as a whole. Each commissioner is thus informed as to the details of the entire city administration. In making a few of the appointments to office at the outset, there were divided votes; but in practically every

detail of administration, the vote is unanimous. The city solicitor usually sits with the council, deciding legal questions as they arise. By request of the council, all matters intended for decision by that body as a whole or requiring the attention of individual commissioners are communicated through the clerk of the council, who occupies a desk at the entrance to the council chamber, hears all complaints and applications for service of any kind, reduces them to writing and distributes typewritten copies to the appropriate departments.

No heart-burnings survive the contest between the Bohemians and Americans for control of the city. The Bohemians are well pleased with the working of the new system. They see the mistake of raising the issue of nationality and say it will not be repeated. A committee of their leaders waited upon the editor of one of the newspapers after the city election and requested that, in the future publication of local news, the reporters be instructed to make no mention of the nationality of those concerned. "We are Americans," they said, "and wish to be so recognized."

The gambling houses of the city were given twenty-four hours in which to close their doors and get their property out of the city. They saw that the commission meant what it said and ceased operations.

Saloons are required to obey the laws to the letter. The social evil is segregated in one locality and kept under severe restrictions forbidding the sale of liquors, enticement of minors and public solicitation, and requiring midnight closing and medical examinations. Periodical fines are imposed on resorts of this character.

Cedar Rapids would to-day give a large majority against a return to the old style of charter. The people of the city now believe in paying their municipal officials for the work they do and holding them responsible for results. "No more horses will go on the pay roll of Cedar Rapids as men," declares Col. C. A. Clark, who, as will be shown in the next chapter, foresaw six years ago the imperative public demand for a change in the municipal charters of Iowa and foreshadowed in principle the action taken by the legislature in 1907, when the Des Moines Plan was adopted.

XV

THE INITIATIVE OF THE IOWA STATE BAR ASSOCIATION

THE honor of initiating the specific movement which resulted in the enactment of a state law authorizing the larger cities of Iowa to adopt the Des Moines plan of municipal government clearly belongs to James G. Berryhill, a citizen of Des Moines, whose part therein is related in an earlier chapter. As in many similar cases, however, the thought of acting along such lines occurred to several persons almost simultaneously; and definite utterances on the subject at earlier dates are traced to a number of citizens of Des Moines and other cities. Charles W. Johnston and Freeman R. Conaway of Des Moines are credited with such authenticated expressions; and to Charles A. Clark of Cedar Rapids must be accorded the distinction of having very early formulated in a conclusive manner a statement of the nature and extent of the break-down of the forms of charter under which the cities of Iowa were operating and the general character of the new charters which must be substituted for the old.

DETHRONEMENT OF THE CITY BOSS

At the tenth annual session of the Iowa State Bar Association, held at Ottumwa July 14th and 15th, 1904, the committee on law reform, which had had the subject under consideration since the ninth annual session of the association, submitted, through the late Hon. L. G. Kinne, a report on the needed changes in the laws regulating municipal affairs in Iowa. This report anticipated in a striking way and to a remarkably complete extent the objections to the old charters and the grounds for expecting better results from the new. The report was from the pen of Colonel Clark, a lawyer of high standing; and the purposes of this volume cannot be better subserved than by reproducing it in full as presented to the association, together with the formal recommendation which accompanied it. The recommendation was as follows:

"That the municipal government of cities of Iowa should be vested in a council of three aldermen, whose term of office should be three years, after the first council the members of which should serve respectively one, two and three years, to be determined by lot; thereafter one alderman to be elected annually; such aldermen in all cases to be elected by a vote of the whole city, and vacancies to be filled by special elections, such councils to be vested with all

the present powers of city councils, and to elect one of their members as mayor to exercise all the duties of mayor, as defined by law; such aldermen to be paid from two thousand to five thousand dollars per year depending upon the class of the city, with additional compensation to the mayor; all to be fixed by law; the said aldermen and mayor to be required to devote their entire time to the discharge of their duties. That the statutes of Iowa should be amended accordingly." The report was as follows:

"All citizens will readily agree to the proposition that municipal government should be honest, efficient and economical. It should also be democratic and sufficiently elastic to meet the local wants of each particular city or town.

"It will be conceded that our present system meets the last two requirements and furnishes the basis for good local government. But does that system give us honest, efficient and economical government? In the smallest towns no doubt it does approximately. In the largest cities both in Iowa and our sister states it is a lamentable failure.

"With no thought then of overturning the system as a whole, the question presented is, can that system be so amended and perfected as to give us efficient and economical government in our cities? The ques-

tion of honesty need not be specially discussed, as we cannot have efficiency and economy without it. Nor can we compel economy. Some cities may prefer liberal, and for the time being, excessive expenditures, for parks, public buildings, public improvements, and they ought not to be needlessly restrained. Experience has demonstrated that in public, as in private affairs, it is often the highest wisdom to invest beyond present needs to insure greater benefits and more profitable results in the future. Where this method is pursued there is need, not of less, but of greater foresight, discretion and efficiency in carrying it out, and of greater watchfulness and economy in the various details going to make up the liberal or excessive whole.

"In business affairs of magnitude such economy would not be looked for in gratuitous or half-paid services. No more should it be looked for or expected in public affairs. Human nature remains the same in both cases. If you want the best, pay for it in the one case as in the other. That is true economy, and the only road to efficiency in complex affairs of magnitude and importance. We have long violated and disregarded these elementary and self-evident rules in carrying on city government and we are reaping the most deplorable harvest of results.

"Under the present system of city councils it is idle to anticipate any improvement. That system has been tried in this and in the mother country for hundreds of years, and has ruinously broken down under modern conditions. City councils grow worse instead of better. The present inefficiency, wastefulness, extravagance and in too many instances, dishonesty and jobbery, are the fruits of the long and patient experiment. These evils develop more and more as population and wealth increase. Municipal affairs become more complex, requiring patient, continuous and intelligent study to master them. Increasingly large amounts of money are collected and disbursed, bringing greater temptations and at the same time greater opportunities for dishonest practises. As the details are not ordinarily mastered and understood by the aldermen, the dishonest find many doors open before them and they do not hesitate to walk in and help themselves. Fifty years ago the almost uniform rule was that aldermen asked themselves the question, 'What can I do to help the city?' Now too often they ask themselves the question, 'What can the city do to help me?' The American public knows by general results how they answer this question, but is practically powerless in its anger and attempts at reform. An honest mayor elected in some spasm of

indignant virtue can accomplish little. The council can circumvent him, and to a great extent nullify his action. Then an outraged public slaughters him, and the vicious circle travels its unbroken round.

"Then there is another spasm, and a 'business council' of business men is selected. They are honest, but are burdened by their own affairs. Already overworked in these, they have no time to master the details of city government; the tricky members who remain circumvent them, taxes are not reduced because they do not discover where to apply the knife. They soon find the task a thankless one; their only compensation is criticism and abuse, and when their terms are ended nothing could tempt them to serve anew. They go out very much as they would go from a term of involuntary imprisonment, or detention for mental unsoundness. Other business men are warned and decline to make the experiment. As a net result the vicious circle still remains intact. Misgovernment instead of good government is what the citizens get.

"The problem cannot be solved by increasing the size of the governing body. Washington with its two houses found that increased numbers brought increased and intolerable evils. Congress intervened and adopted the system of the three commissioners

with the result that it is the best governed, instead of the worst governed, city in America. St. Louis, with its two houses of city fathers, teaches the same lesson. Chicago, New York and Philadelphia demonstrate that large numbers in city councils bring bad results. Our own state has recognized this by limiting aldermen to one from each ward where we formerly had two. This has been an improvement, but is far from solving the question. It is a step in the right direction. Nothing more can be said of it.

"The real fact is that the present system entirely disregards what lies at the very basis of efficient and economical municipal government, namely, that it is almost altogether a matter of vigorous and honest business methods. A business man who confided to the average city council a business which involved the collection and expenditure of more than one hundred thousand dollars annually would be thought insane, unless he deliberately intended to wreck the business and go into bankruptcy. Yet we do this in the business of governing our cities and think ourselves the sanest and most progressive people in the world. Cedar Rapids, to illustrate, collects and disburses more than $125,000 annually. Can this be well done without systematic and continuous study and rigid exactness every day in the year, any more

than in any other business requiring the collection and disbursement of the like large sum? By no manner of means. Very recently a horse figured on its pay rolls for months as a man, and it is doubtful if any city official had any knowledge of the fraud. When it was discovered, the man who thus drew the money was indicted, tried, found guilty, and a small fine, much less than the amount drawn from the city treasury, was imposed. He could pay his fine and costs and have money left in his pocket to smoke good cigars all at the expense of the public. No step has ever been taken to recover the money. Nor has such a thing ever been hinted at in any council meeting, or apparently been thought of by any alderman. Yet the council under which this happened was far above the average. Its membership included leading business men, of undoubted integrity, and eminently successful and prosperous in their own affairs. If money had been taken from them in their own business by a like device—a thing hardly conceivable—they never would have rested until they had the money back and had adequate punishment inflicted upon the offender. As aldermen they are not decently compensated for ordinary routine work, and they cannot abandon their own business for the trouble, worry and loss of time inseparable from

working out such details on sound and efficient business principles.

"Apply the business incapacity of this transaction to the details involved in expending from $100,000 to $150,000, and it is not difficult to understand why results are hap-hazard, expensive and burdensome. That this method of municipal government is a failure nobody will deny. That it continually grows worse everybody knows. The facts are undeniable.

"There must be a remedy for this bad and demoralizing condition. The problem cannot be insoluble. The solution is not in increasing our aldermen and making our councils larger. That has failed wherever it has been tried. On the other hand, the decrease in numbers, with adequate compensation for the skill, energy and time required in affairs of such magnitude has been tried and has succeeded—witness the city of Washington. If three commissioners are sufficient to successfully deal with the problems of municipal government in that city, three aldermen or commissioners are sufficient in number to manage the affairs of any city in Iowa. In Washington they are appointed by the president and confirmed by the senate. This may do for the District of Columbia, but it would not do for the country at large. It would take away the principle of local self-government by

direct vote of the people, which is by no means to be rejected or cast aside. But preserving this element, let our city councils consist of three aldermen, one of whom shall be elected annually, and one of whom shall be mayor. This may be left to election by the board, or the senior member may act as mayor. They should be vested with all the powers given to city councils, and such powers as may hereafter be granted to cities. Above all, they should be required to devote all of their time to the affairs of the city and should be paid adequate compensation for doing so. And they should be paid not as mere clerks, but as administrators of public affairs, guardians of the public rights; managers of endless details of the most vexatious character, amounting annually to scores and hundreds of thousand of dollars. Only thus have we any right to expect that constant daily and hourly supervision and control which the successful business man gives to his own affairs and only by this continuous supervision have we any right to expect success in public affairs any more than in private affairs.

"The notion that eight or ten aldermen whose energies are sorely taxed by their own business, can administer the affairs and expenditures of a city, involving vast amounts of money, by holding stated

meetings in the evenings once in two weeks, and the like special evening meetings spasmodically and without system, is absurd and puerile in itself. We have outgrown this method and it ought to be cast aside like a wornout garment. Public interests have become too complex, of too much magnitude, too expensive and demand too much constant and exhausting energy to leave them bantlings and beggars as to the care they require and which must be bestowed upon them for their orderly and efficient administration. Pay for the services they need, as the business man would pay for like services and we may expect the ability, character and energy required. We have no right to expect them now. We try to impose our burdens upon others and rob them of the time, skill and force which those burdens require. In the venture we are robbed ourselves, and we have no just cause of complaint. A Scotch lady gave her servant girl ten pounds upon which to get married. The bridegroom turned out to be old, halt, deaf and blind of an eye. When the mistress remonstrated the maid replied: 'But, ma'am, what can you expec' for ten pun?' The question applies to our city affairs, and the reply is obvious. You get what you pay for. Efficiency which is neither halt, deaf, nor blind, but which is continuous and tireless, is worthy of its hire;

and it will save that hire many times over in the management of details, and in accomplished results.

"The plan proposed would give the public greater personal responsibility and accountability. Now there is practically none. It would insure greater care in selecting a board to manage city affairs. One alderman elected each year by the city at large, who may in turn become mayor, and who must act for the whole city, rather than for a particular ward in a special sense, and for the whole city only incidentally, must inevitably be selected with greater care than aldermen are at present. It would give men who act for the city as a whole, rather than an aggregation of special representatives for special wards who carry out petty and selfish schemes without regard to the general good, by the methods of log rolling politicians.

"Already the legislature has rejected and repudiated our present city councils in important affairs of city government. The law does not permit them to manage waterworks, but requires the appointment of a board of three; it does not permit them to control public libraries, but requires special boards for their administration; it authorizes park commissioners and boards of public works in order to eliminate city councils as far as possible. The legislature testified to its distrust of city councils by attempting to have

boards for water works appointed by the courts. It was only after this was held unconstitutional that councils were permitted even indirect control of public utilities by selecting the boards who manage them.

"These are steps in the right direction and have given us better results as to these matters. But they all call for practically gratuitous services from the boards; each board necessarily looks after its own affairs regardless of what is required by others. There is conflict and lack of coordination, where there should be a harmonious control and uniform effort for all.

"A multiplication of boards is objectionable as a multiplication of aldermen, and for the same reasons. They are mere expedients to get rid, as to them, of an admittedly bad system of municipal government. Make that system good and efficient and the reason for all of these various expedients of boards is gone. The boards should go when the reason for them ceases to exist. An entire system governing all, rather than a scrappy system governing parts, is one of the benefits of reformed and efficient city control and management.

"Practical results are best achieved by adding to what we have, rather than by visionary schemes of rejecting what has stood the test of time and substituting a wholly new invention in its place. The

plan proposed has this merit. It proposes the modification of an existing system to meet undeniable evils which have developed under it, and to adapt that system to existing conditions which are widely different from fifty years ago. There need be no fear of the proposed modification. It cannot give us worse city government than we have now. There is every reason to believe it will give us better. Let it have a trial, and may the people never cease trying until the evils and abuses of the present system are cut up root and branch."

XVI

SOME FUNDAMENTAL OBJECTIONS ANSWERED

The drift of the times away from the municipal forms with which the American people have long been familiar toward government by a small body of commissioners chosen by the people is sufficiently strong to insure early consideration of the reform in every part of the country. It therefore becomes important, in order that the genius of the nation may be fully and thoroughly embodied in the resultant new municipal modes, that every honest objection arising in the popular mind receive careful attention, and that the problem of adapting the commission form to local conditions be everywhere digested with the utmost thoroughness. This is all the more needful because of the very popularity of the new plan. The biblical admonition not to follow a multitude to do evil is hardly more applicable than the counsel which warns us not to embrace any popular innovation without putting it to the touchstone of our own best thought. There are in every community in which the

commission plan of government is broached, genuine and sincere doubts as to its fundamental soundness, its consistency with republican principles and its adaptability, even if generally right, to local requirements. It is not only fair and right that these questions be heard and considered, but it may be accepted as a general rule that the community which does not "thresh out" the whole subject, taking time and giving opportunity to make every part of the new system its own, meeting all objections, resolving all doubts and finding, through its own thinking, a basis on which a large majority of its people may unite, will not derive from a government by commission all the benefits it is seeking. Even superficial and manifestly illogical and impertinent opposition should be dealt with candidly and tolerantly. The utter failure of the old way does not entitle the new one to our adherence simply because it offers a change; and prejudice is more easily turned into unaccustomed channels by diplomatic methods than by the resorts of arrogance.

To many, the government of a city by a single body, few in numbers, unchecked by other independently chosen officials or branches, and exercising legislative, judicial and executive functions seems inherently unrepublican. We have the assurance of the courts that

the commission plan is not in violation of the constitutional guaranty of a republican form of government to the states; but if, despite the fact that it comes within the pale of mere constitutionality, it will import into our civic life an insidious principle of evil, we should not open our doors to admit it. We cannot afford to cultivate efficiency at the expense of popular liberty.

If the city was in reality a little republic, exercising over its territory all the functions of government belonging to our states, the combination of all of its powers in one body might indeed be fraught with danger. But while cities chance as governmental entities to exercise some executive, some legislative and some judicial powers, they are essentially executive in their functions—business corporations for the conduct of a multitude of local affairs, in which the chief interest of the citizen is efficiency. The city is permeated by the parallel sovereignties of the state and the nation, through both of which the citizen is guaranteed the rights of life, liberty, freedom of speech and press, safety from unwarranted invasions of his house and all the immunities to which the ages of English and American liberty have made him heir. He does not need a third republic to overlap or underlie these agencies of protection. He does sadly need a local instru-

mentality for the efficient administration of the affairs in which he and his neighbor are most directly interested. He needs a tighter rein on those whom he chooses to look after his water supply, the paving of his streets, the protection of his property from fire, and a multitude of intimate matters of that sort. If he is in a position, by a direct, instead of an indirect application of the democratic principle, to see that his city council as a legislative body enacts only just ordinances; to see that as an executive body it enforces those ordinances faithfully in the public interest, and to see that such slight judicial powers as the state restricts it to are exercised honestly and rightly, why need he worry about "checks and balances"? He already enjoys, through a more democratic regime, the very benefits to secure which the system of "checks and balances" was instituted.

The tremendous effectiveness of the commission plan through its very simplicity and the directness with which public opinion acts to enforce the public will obscures the wonderfully complete success which has everywhere thus far attended the operation of the new system. It stands, as it were, in its own light. There is so little friction in the public service; the right thing is done so promptly and uniformly that the monotony of good results becomes almost un-

canny. Friends and foes of the plan are apparently both waiting for trouble of some kind to arise so as to test it more crucially. Certainly, they think, it cannot always continue to produce such excellent results. Wait till the councilmen or commissioners begin to behave as our old aldermen did, betraying and defying the public will and then, by manipulation of elections, perpetuating their power. Will not this small council, unchecked by any other department, controlling both appropriations and expenditures, and exercising legislative, executive and judicial powers unhindered save by the state and federal courts, play havoc with the public welfare? The all-sufficient answer is that direct responsibility to the people of the entire city, reenforced by the initiative, referendum, protest and recall, has really and truly reestablished democracy; and that, the man of the house being always at home, the servant remains a servant and ceases to be a menace to his master's interests.

But is there not danger in the small size of the council? Can the people trust so much power in the hands of five men? In some states, the smaller cities are already authorized to adopt charters providing for government by three commissioners instead of five. Will not three bad men, constituting all of such a commission, or a majority of the council of five, set

up a local oligarchy, intrench themselves behind a "machine" sustained by the power of public patronage, and establish a bossism more odious than any of the cities of the country have ever known? Or will not the public service corporations, or other selfish private interest, or all combined, find it easier to control or corrupt a small body than a large one?

These are legitimate questions and should not be evaded by the supporters of the new plan. It should be remembered, however, that a fair amount of capacity for self-government on the part of the citizens of any American city is to be assumed. To assume the worst, why is it to be taken for granted that bad men will be elected? Why, after they are elected, are we to expect that the universal law that men grow better and stronger under responsibility will be abrogated in our municipal affairs? The fact is that the good results everywhere uniformly recorded under the commission plan of government are exactly what we had a right to expect from the election of a small governing body by the citizens of a city acting at large, regardless of ward and partizan lines; from a division of municipal functions among clearly defined departments, and from the reservation of power in the hands of the people through the initiative, referendum, protest and recall. The commission form of

government rests upon the eternal principles of a human nature which has not fundamentally changed since the dawn of history.

Paradoxical as it may seem, it is easier for sinister, anti-public influences to control a large body than a small one. The sense of responsibility increases as the number upon whom it rests diminishes. If to the constraining force of this law be added that which arises from the unification of the community by election at large instead of by wards, it may readily be seen why a city council of two chambers or one of a single chamber consisting of many members may be seduced from the path of duty while a commission of five, each solemnly charged with specific duties and facing definite responsibility to a constituency empowered to enforce its will, would resist all the arts of the lobby. It is not, then, really so strange that wherever cities are governed by responsible commissions, the voice of municipal scandal is silenced, seemingly for all time.

The contention that the Des Moines plan, while conceded to work excellently in cities of small or moderate size, would not bear the strains of the vast business of a city like Chicago, Philadelphia, Boston or New York, while not involving considerations so fundamental as those just dealt with, is worthy of a

moment's attention before we leave this subject. At what stage of a city's growth, it may fairly be asked, does it cease to be subject to the general rules which govern the organization and administration of business affairs? Is partizanship a more beneficent influence in a large city than in a small one? Has national politics a more legitimate place in the selection of an alderman in Philadelphia than in the choice of a commissioner in Galveston? Is the ward system an unmixed good in any of our great cities? In which of these cities is the governing body too responsive to public opinion?

No one who realizes the almost infinite complexity of the life of a great city like New York would contend that any ready-made system of government could be easily adapted to the administration of its vast municipal business. It will not, however, be denied that unless the public in such a city is to submit to the policy or no-policy of drifting into ever greater and more mystifying complexity, even our great cities have much to learn now, and much more as the future shall unfold, from the simpler forms and more democratic spirit of the municipal governments of Des Moines, Galveston and other cities which are, for themselves at least, solving the problems of municipal government.

XVII

INTERESTING MODIFICATIONS OF THE GALVESTON-DES MOINES PLAN

One of the distinct aims of the municipal reformers of the United States as represented by the National Municipal League is the emancipation of cities from the domination of the legislatures of their respective states. Whatever may be the capacity of our great, heterogeneous urban populations for self-government, it cannot be developed to its highest possibilities so long as there is no basis for the self-respect and self-reliance which, in communities as in individuals, go with a reasonable degree of command over their own destinies. Cities are humiliated and degraded by the constant intermeddling in their local affairs of bodies essentially foreign to them; and the tendency on the part of legislatures to usurp jurisdiction over large cities within the borders of their states has been strengthened by the partizan government of cities and further accentuated by the fact that several of our large cities have adhered to the parties which were in the minority in their respective states.

DETHRONEMENT OF THE CITY BOSS

A marked characteristic of the present charter movement has been the aggressive local spirit developed in the cities which have embraced it. No sooner has a city manifested a deep and abiding interest in government by commission than there has appeared alongside of it a spirit of independence and a determination of the city to rule its own affairs that bode no good for the traditional combination of bad city and state politics. Hampered tho they are by written constitutions, the American people are as resourceful in politics as in invention, industry and business; and this resourcefulness is appearing in the modifications of the commission system adopted in various cities and states.

The highest degree of autonomy which an American city can enjoy is that prevailing in the states which by their constitutions permit cities to frame their own charters. The states of Missouri, California, Washington, Minnesota, Colorado, Oregon, Oklahoma and Michigan have more or less liberal constitutional guarantees of this character. In other states, charters may be obtained only by acts of the legislatures, and, even if of purely local origin, must bear the form of state laws. The Des Moines charter, tho entirely a local product, is necessarily not only a state law, but, under the state constitution, a

law of general application. For this reason, every Iowa city adopting the new form of government—as Cedar Rapids, Keokuk, Burlington and Sioux City have done—must accept the Des Moines charter as its own.

As might have been anticipated, the strongest disposition to adopt provisions departing from the type of government established by Galveston and Des Moines has been shown in one of the states enjoying the largest constitutional liberty in charter-making. By incorporating in its new charter the principle of preferential voting, heretofore untried in this country, the city of Grand Junction, Colorado, has challenged the attention of municipal reformers, and inaugurated the practical exemplification of a method of selecting city officers which cannot fail to interest students of municipal government everywhere.

The Grand Junction governing body consists of commissioners of public affairs, water and sewers, finance and supplies, highways, and health and civic beauty. Each commissioner is elected for one of these five specific positions, the commission not being left free to assign its members to the several departments, as in Galveston and Des Moines.

The method of voting permits the voter to indicate his first, second and third choice among the candidates

for each office. Only one first choice and one second choice may be voted for each office; but the elector may indicate as many third choices as he desires, with the limitation that he must omit voting for one name for each office, if there be more than one candidate therefor. Thus, if there be six candidates for one office, he may indicate one first choice, one second choice and three third choices; if four candidates, he is restricted to one first, one second and one third choice.

If any candidate for any office receive a majority of all the votes as first choice, he is declared elected. If no candidate have such a majority, the candidate receiving the lowest first choice vote is dropt out of the count, and the canvassing board proceeds to include the second choice votes, adding them in each case to the first choice poll. If no candidate then have a majority, the third choice vote of each candidate is added to the sum of the first and second choice votes and the candidate having the largest total is then duly declared to be elected.

The preferential system gives the benefit of organization to the unorganized mass of voters as against those elements of the electorate which are, from various causes, always in a state of quasi organization. It therefore makes for democracy in the larger sense,

in so far as popular rule can be made effective through the election of officials.

The Grand Junction voting plan gathers from a single mood of the people of a city on one election day an expression of their will as to candidates, making it effective without the second election provided for in the Des Moines charter. Its value may best be determined, in advance of the experience which must remain the truest test, by comparing and contrasting it with the double election provision of the Des Moines plan.

By the Des Moines method, all but two of the candidates for mayor and all but eight of the candidates for councilmen are dropt after the primary election, whereas the Grand Junction method leaves all candidates except the lowest in the poll in the running until the end. The Des Moines plan assumes that one of the two highest candidates for mayor and four of the eight highest candidates for councilmen in the primary are the best men for these places, while the Grand Junction plan leaves that question open. In Des Moines, the voters are furnished, in the returns from the primary election, definite information as to the sentiment and opinion of the community as a community and then, two weeks later, are permitted to register their final verdict; whereas, in Grand Junc-

tion, no opportunity is given for a revision of the public decision as to candidates. Des Moines compels the man favoring the candidates failing of the nomination to transfer his allegiance to one of the two highest candidates for mayor and four of the eight highest candidates for councilmen, *i.e.*, the nominees of the primary, while Grand Junction gives effect, through second and third choice votes, to his original preferences except that the very lowest name may be dropt. The question which is the better system therefore resolves itself into one of the relative value of the conscious second choice opened to the community by the Des Moines plan and the larger liberty of selection, without opportunity for deliberate revision, afforded by the Grand Junction plan.

Very interesting and important and hardly less novel as a political experiment than the preferential voting system of Grand Junction is the contingent and conditional term of office conferred upon its mayor by the city of Boston in the charter recently adopted by popular vote of that large city. By this instrument, the mayor is eligible for a term of four years; but at the state election held in November during his second year of service, the question must be submitted to the voters, "Shall there be an election for mayor at the next municipal election?" and if the majority

vote "yes," the incumbent of the mayor's office must face the ordeal of an election in January, at the middle of his four years' term; whereas, if the negative prevail, he is permitted to serve out his full term.

The Boston charter assumes the desire of the head of the city government to continue in office for the full term, tho providing a method of voluntary retirement without prejudice at the end of two years as well as for enforced confrontment with a popular vote of confidence or lack of confidence. There is in this provision the essence of the recall, without its supposed tendency to make an official over-studious of the changing moods of the populace. During the first two years of the term, while the administration is making those first impressions which are most lasting and while its character is necessarily being fixt by the quality of its acts, the mayor has the incentive of a four years' term and a negative vote on the question of holding a mid-term election to spur him to good service. Under the new charter, too, he is vested with large powers and responsibilities, admittedly making for good service.

While clearly not of the Galveston-Des Moines type, the Boston charter provides for a municipal organization of great simplicity of structure, with distinct centralization of responsibility, separation of

municipal from state and national elections, abolition of partizan nominations and the election of all members of the council of nine members by the city at large. Its adoption marks the highest point yet reached in charter-making by any of the great cities of the country.

Most unique among the provisions of the Boston charter and most far-reaching in its influence for good if successfully enforced is the requirement that the heads of departments, who are to be appointed by the mayor without confirmation by the council, " shall be recognized experts in such work as may devolve upon the incumbents of said offices, or persons specially fitted by education, training and experience to perform the same," and that, excepting election commissioners, they shall be appointed without regard to party affiliation or to residence at the time of appointment. This establishes a criterion for which Dr. Chas. W. Eliot has contended, as well as what appears to be an adequate instrumentality for its maintenance. For the qualifications thus definitely prescribed are not left to the arbitrary judgment of the appointing power—the mayor's appointments not becoming operative unless at least a majority of the state civil service commission shall certify, within thirty days, that they have inquired into the qualifica-

tions of the appointees and found that the law has been complied with.

One of the important powers conferred upon the mayor by the Boston plan is that of originating the city's annual budget. The council may eliminate appropriations from the budget as submitted by him, but may not increase any appropriation or add new items; while if they pass any act, order, resolution or motion involving the expenditure of money, the mayor may approve some features in whole or in part, and disapprove others in whole or in part.

The typical commission of five members, as represented by the governing bodies of Galveston, Houston, Dallas, Des Moines, Cedar Rapids and Leavenworth, holds office for a term of two years, the terms of all five of the commissioners expiring at the same time. Colorado Springs, in the charter it adopted in 1909, provided for a continuous body, the terms of office of the commissioners expiring at different times and a part of the commission always holding over. The Wisconsin law includes this provision and omits the recall and initiative.

The city of Berkeley, California, in a freeholders' charter which went into effect July 1st, 1909, established a commission form of government of the Galveston-Des Moines type, providing for the selection

by the voters acting at large of a mayor, four commissioners, an auditor and four school directors, and embodying provisions for the initiative, referendum and recall. The charter provides for two municipal elections, three weeks apart, care being taken to avoid giving the first one the character of a primary. This is accomplished by making the first vote final as to all offices for which any candidate receives a majority of all the votes cast, and restricting the second election to those offices for which no candidate receives a clear majority at the first. As in Des Moines, the two candidates for mayor and for each of the four commissionerships are the candidates, and the only candidates, whose names go on the official ballot for the second election, but only to the extent to which the places were not filled at the first election. After the first election, the councilmen and school directors have a four-year term, two councilmen and two school directors going out of office every two years.

The name "commission" was, at the beginning of the charter movement, misleading, in that it conveyed the impression of an appointive body commissioned to perform certain specific duties. The word, however, has taken on the new meaning established by vital new facts in municipal history, and is no longer

misunderstood. It is still admitted that neither Galveston, which calls the members of its governing body "commissioners," nor Houston, which retains the names "mayor" and "aldermen," nor Des Moines, which adheres to the titles "mayor" and "councilmen," has been felicitous in providing a terminology for the new regime. The duties of the commissioners are, perhaps, more nearly identical with those of the directors of a banking or commercial corporation or the department managers of a large mercantile or manufacturing concern; but the popular instinct which has shrunk from the adoption of these more truly descriptive titles may be wiser than the business sense which discerns in efficiency the one great desideratum for cities. After all, city government, tho dealing mainly with matters of business, is still government and not business only.

XVIII

TWO PRACTICAL TESTS OF THE DOUBLE ELECTION PLAN

When the Des Moines charter came from the hands of the committee of five lawyers who framed it, it provided for only one municipal election, pluralities determining the selection of the mayor and four councilmen. While the enabling act authorizing Des Moines and other cities to avail themselves of its advantages was pending before the general assembly, the committee of citizens in charge of the measure held a conference with the local members of the legislature, at which the governor was present.

When the section providing for the election of the mayor and council was under consideration, Governor A. B. Cummins pointed out the danger that private interests, taking advantage of the liberal nomination privileges of the act, could put a set of candidates in the field, divide the public by bringing out a multitude of local candidates, and, by concentrating the votes they controlled upon their own "slate," rule the city through a skilfully handled minority of the voters. The com-

mittee invited Mr. Cummins to draft a provision which would remove this objection. He promptly responded with the double election provision which is now recognized as one of the most valuable features of the Des Moines plan—a piece of constructive statesmanship of which scores of cities have already taken advantage and which bids fair to become a part of the American city charter of the future.

The relative value of this double election plan and the preferential voting system which commands hearty popular approval at Grand Junction, Colorado, was briefly considered in the last preceding chapter. To give the reader a better understanding of how the double election plan works out in practise, a somewhat detailed account of the Des Moines double municipal elections of March 16th and 30th, 1908, and March 14th and 28th, 1910, may not be out of place.

During the campaign leading up to the election by which the charter was adopted by the people in 1907, its friends had emphasized its essentially democratic character as transferring the control of municipal affairs from the hands of the few to the community as a whole. This contention was bitterly challenged, but without success.

There were those, however, in the charter party who all along contended that there must after all be organ-

ized action among the best citizens to select a ticket of five men on whom the better element should unite, urge their nomination at the primary and carry on a campaign on their behalf until the final election. Others insisted that, while there must always be organization and leadership, there must be a certain spontaneity of action and a generally recognized freedom of candidacies in order to give effect to the spirit and letter of the charter. United up to the charter election, the advocates of the new system divided on this issue.

Into the controversy thus engendered at the time of the first municipal election under the commission plan entered a personal element, that of opposite views as to the desirability of electing as a member of the first council Mr. John MacVicar, former mayor of the city, then and for many years secretary of the League of American Municipalities, an expert in all matters municipal and—one of the most adroit politicians in the city and state; a man hated by the public service corporations for his uncompromising attitude in favor of strict regulation of rates, limitation of franchises, publicity and general control of corporate affairs; one of those public men whose positive character divides communities into idolatrous followers and bitter enemies. Mr. MacVicar had powerfully contributed to the movement for the adoption of the commission plan; but the

majority of the leaders of the charter movement, believing that he would be a "firebrand" in the new council and, through his strong personality, would unduly dominate it, insisted that a well-balanced ticket, composed of strong business men, should be agreed upon by the committee of three hundred, and that, in the interest of harmony, his name must be tabooed from the start. Other friends of the charter took the opposite view and championed the principle of unguided, spontaneous candidacies and reliance upon the double election to work out the city's political salvation.

Mr. MacVicar became a candidate without consulting the recognized leaders of the charter campaign; and a multitude of candidates, good, bad and indifferent, followed suit. The original charter party carried out its program of selecting five unexceptionable men for the first commission, and these candidates, canvassing the city in a body, appealed for votes and received the earnest support of two of the three newspapers favoring the charter, as "the Des Moines plan ticket."

The mass of the voters, the majority of them supporters of MacVicar, resented the assumption of leadership on the part of the committee of three hundred and early showed signs of deep-seated hostility to "the slate," as the group of candidates so championed came to be called. An influential local newspaper, with a

strong hold on the workingmen, abandoned what had been a hard-and-fast combination of the press in support of the charter and urged the election of three independent candidates — MacVicar, Charles W. Schramm, a city assessor of fine record, and John L. Hamery, a reform member of the old city council. A fourth newspaper, which had opposed the charter, violently assailed "the slate" and urged the election of candidates put forward in the interest of the "city hall gang."

The partizans of "the slate" succeeded at the primary in getting four of their five candidates on the final ballot—a popular manufacturer for mayor, a college professor, a coal operator and a real estate dealer for councilmen—all admirably adapted for public service. Against these candidates were pitted A. J. Mathis for mayor and, for councilmen, Messrs. MacVicar, Hamery and Schramm, with Wesley Ash, a coal miner who had been a deputy sheriff, and W. H. Brereton, a contractor who had been prominent in city politics for several years and was a member of the old city council.

Judge Mathis, who had, as head of the police court, been a prominent factor in maintaining a virtual license system for prostitution, levying periodical fines on fallen women, was severely criticized by some of the supporters of "the slate" and it was hoped that the

deep feeling of the best citizens against the segregation and recognition of the social evil as a permanent part of the community life would lead to his defeat by the candidate of the charter party for mayor. As the final election approached, however, the popular wrath against the slate as a ticket brought out by the few became inflamed almost to a frenzy. The result was the overwhelming defeat of every candidate on "the Des Moines plan ticket," and the election of Mathis as mayor, and MacVicar, Schramm, Hamery and Ash as councilmen.

The first council was far from ideal, consisting of two incongruous and antagonistic elements; Mathis and Ash representing "the liberal element," who desired what is known as "a wide open town" as to gambling, saloon restrictions and the social evil, and MacVicar and Schramm, after some experimenting in other directions, cooperating with Hamery in the policy of abolishing the red-light district and enforcing the laws against gambling, in its petty as well as its grosser forms. The administration as a whole was successful beyond all expectations, demonstrating that even with a personnel not wholly satisfactory, the new system had inherent possibilities for good.

The crushing defeat of a conscientiously selected ticket at the election of 1908, as above set forth, con-

vinced all concerned that democracy was indeed in the saddle and that in the future it would be worse than useless to seek popular support for any combination of candidates openly announced in advance as the choice of any committee, club or organization of any kind whatsoever; that, to gain favorable attention from the electorate, candidates must, at least in the first instance, come into the field as individuals; and that indorsements of "slates," either by individuals or organizations, would be hazardous to the success of candidates so favored.

The election of 1910 took on a radically different aspect from that of 1908, although it was characterized, as was the latter, by the formation of numerous local clubs, improvement leagues and other organizations, before which the various candidates were invited to appear, answer questions and make speeches—a style of campaigning as novel, locally, as the new system itself. A multitude of issues, moral and economic, were developed by the ante-primary campaign, but the preliminary contest was very quiet, there being only twenty-four candidates for the five places in the council, which was less than half as many as in the primary election two years before. About 12,500 votes were cast at the primary election on March 14th—about an average vote for a state election—with the result that

the ten names qualified to go on the final official ballot, with the votes cast for each, were as follows:

For Mayor.

JAMES R. HANNA, 3,143.
A. J. MATHIS, 4,879.

For Councilmen.

WESLEY ASH, 6,870.
W. H. BRERETON, 5,090.
E. D. BRIGHAM, 3,338.
J. L. HAMERY, 3,736.
JOHN MACVICAR, 6,716.
W. A. NEEDHAM, 3,554.
Z. G. ROE, 6,346.
C. W. SCHRAMM, 4,582.

Several thousand votes, of course, were cast for the fourteen candidates who failed to win the nominations.

The community was astounded to read in the returns that it had apparently declared for "a wide open town"; five of the ten nominees, Messrs. Mathis, Ash, Brereton, Needham and Roe, being the "slate" that had been unobtrusively indorsed or recommended by the "Consolidation Club," an organization extemporized by "the liberal element," in which saloonkeepers, gamblers and advocates of licensing the social evil had been active and prominent. Moreover, four of these

were the high men in the poll, and, had not the Cummins amendment to the charter been adopted, would have been in control of Des Moines' second city council under the commission system. One of the four, W. H. Brereton, was thoroughly representative of the spirit and methods of the old regime. Others had declared that the red-light district would never be reopened, but their good faith was questioned.

Des Moines stood revealed to itself as ready to abandon the highest realized ideals of the past two years and to turn its city government over not only to those who were pledged to a loose enforcement of the laws or none at all, but to men unfriendly, in most cases, to the principles embodied in the new plan.

The reaction was immediate, tremendous and far-reaching. Interest in the municipal elections rose at once and automatically, as it were, to fever heat, exceeding that of any recent presidential election. In the two weeks between the primary and final elections, every moral force of the community was rallied to the support of Messrs. Hanna, MacVicar, Schramm, Hamery and Brigham, the assertion being made that Mr. Roe, while on the " liberal " slate, was not in sympathy with the free-and-easy program it represented. Despite strenuous exertions by the reactionaries, the result of the primaries was diametrically reversed; Hanna

was elected mayor by a narrow margin; Schramm was substituted for Brereton as the fourth member of the council and a council was chosen in distinct harmony with the spirit of the new regime. The final vote —electing Hanna, MacVicar, Schramm, Roe and Ash—was as follows:

For Mayor.

JAMES R. HANNA, 7,525.
A. J. MATHIS, 7,509.

For Councilmen.

WESLEY ASH, 8,829.
W. H. BRERETON, 5,429.
E. D. BRIGHAM, 4,284.
J. L. HAMERY, 5,947.
JOHN MACVICAR, 9,006.
W. A. NEEDHAM, 5,976.
Z. G. ROE, 8,167.
C. W. SCHRAMM, 7,371.

The tolerance of the voters was exemplified by the election as mayor of Prof. J. R. Hanna, of Highland Park College, an expert in civics and economics, who had been defeated for councilman two years before as a member of the hated "slate." All opposition to MacVicar among friends of good government had ceased. The second council was clearly superior in

ability and character to the body which it succeeded, insuring a wholesome advance in the local standards of city administration.

What would have happened under the Grand Junction plan of preferential voting? It is impossible to determine conclusively. The outcome could hardly have been improved upon. From failure clearly to discern the moral questions at issue, it might have been worse. The voters, however, even in the primary election, showed by much of their voting a considerable insight into the character of the candidates. The Grand Junction system might have made their knowledge effective. The preferential voting plan, at all events, is well worthy the attention it is attracting.

The Berkeley plan would have made the selection of MacVicar and Ash, who received clear majorities at the primary, conclusive; but how the consequent restriction of the voting at the final election to the filling of three places would have affected the outcome, it is beyond human ken to determine. The results of many elections will be needed to demonstrate all the possibilities of the three systems and their relative value as modes of taking the popular verdicts respecting candidates.

XIX

RESULTS OF THE NEW SYSTEM IN FIVE TYPICAL CITIES*

1.—In Galveston, Texas

A board of three eminent engineers was employed and paid to devise plans for the reconstruction of the city after the flood.

The emergency following the great storm was dealt with efficiently by the city, acting independently and also jointly with the county and state.

The grade of the entire city was raised by the city with the assistance of the state; a great sea wall was constructed by the county; these improvements aggregating in cost $4,000,000.00.

Annual budgets exceeding the city's revenue by an average of about $100,000.00 gave way to budgets kept strictly within the municipal revenues.

A floating debt of $204,974.54 was paid off out of current revenues; bonds to the amount of $462,000.00

*A majority of the cities operating under the new plan have adopted it within the year 1909, and many of these have not yet held their first elections under it.

were retired; new bond issues were restricted to permanent improvements; an agreement was reached with holders of city bonds whereby the interest was reduced from five to two and one-half per cent. for a period of five years.

The city hall and the water works pumping station, wrecked by the flood, were rebuilt.

The water system was extended and provision made for a duplicate main across the bay.

Three engine houses were built and others, damaged by the storm, were repaired.

The entire business section was repaved at a cost of $183,027.07.

Rock and shell roads costing $181,064.04 were constructed.

The drainage system was extended at a cost of $245,664.47.

Old judgments to the amount of $18,026.65, inherited from former administrations, were paid off.

City employees were paid in cash instead of in scrip, subject to heavy discounts.

City bonds, quoted as low as sixty in the flood year, were speedily brought to a premium.

A modern system of bookkeeping was introduced.

Interest was collected on city balances in bonded depositories.

A plan of preparing the annual budget and strictly adhering to it was adopted.

The sanitation of the city was greatly improved.

The streets were kept cleaner, and cleared of fruit stands and other obstructions.

Police regulations were more strictly enforced.

Saloons were excluded from the residence districts.

The policy evil and public gambling were abolished.

The city hall was transformed from a resort for loafers into a business office.

Political influence was eliminated in selecting heads of departments and employees; the merit system was established.

The city water service was metered.

Favoritism was done away with in all public services.

The services of men of the highest character and ability were secured for the municipality.

Public confidence in the city government was fully restored.

The city was emancipated from the long reign of strife, dissension and jealousy; harmony and general prosperity were reestablished.

Notwithstanding the enormous extension of municipal activities and the increase of efficiency, a tax

rate of $1.60 for city purposes, the lowest of any large city in Texas, was not increased.

2.—In Houston, Texas

City indebtedness to the amount of $400,000.00 was retired.

The practise of issuing bonds to cover annual deficits was discontinued; expenditures were kept rigidly within the city's income.

Current city obligations were promptly met; warrants, previously quoted at seventy-five to eighty, became worth par.

The city credit was completely restored following a period when bond-holders had been threatening to sue on account of defaults.

Water works were purchased for $901,000.00, with popular approval, showing confidence in the new government; the purchase was approved in 1906 by a vote of three to one, whereas it had been rejected in 1903.

The water service and fire protection were greatly improved.

The street railways were required to bear their share of public burdens and improve the service.

Three schoolhouses were built at a cost of $106,000.00.

A fifteen-acre park was purchased for $55,000.00 cash.

Dangerous old bridges across the bayou in the heart of the city which the old government had refused to replace, except by bond issues, were replaced with new bridges paid for out of current revenues.

Twelve other bridges were put in repair.

The city plumbing work and supplies were obtained at fifteen to twenty-five per cent. less cost by the adoption of business methods.

Good vitrified brick paving was substituted for inferior work.

A shipload of brick was imported from New York and the brick combination was broken.

The cost of electric lights was reduced from $80.00 to $70.00 per arc per year.

The tax rate was reduced from $2.00 to $1.80.

Graft, sinecurism, favoritism and incompetency, which permeated every department of the old government, were done away with.

Police and sanitary regulations were strictly enforced; the fostering of vice was discontinued.

Quarreling and dissensions disappeared; harmony was restored both in the city government and among citizens.

Business methods were adopted in all departments.

Council sessions became short, businesslike and devoid of speech-making.

The confidence of citizens in the integrity of the city government was completely restored.

Growth and prosperity of the city were stimulated by improved civic conditions.

These good results were obtained simply from change of the system, members of the commission having been connected with the former government.

3.—In Leavenworth, Kansas

Strict enforcement of law was substituted for the city's traditional policy of defiance of state prohibitory laws.

Bankruptcy and financial helplessness were succeeded by a thoroughly satisfactory condition of the city's finances.

Citizens of the highest standing were induced to accept office under the new regime; the politicians being driven from power by large majorities.

A period of decreasing population and stagnation in business and building was followed by one of rapid growth in all of these respects.

In twenty-five years under the old form of government, the city paved twelve miles of streets. In the

first twenty-one months under the new system, five and one-half miles were paved.

City bonds to the amount of $20,200.00 were paid off in two years.

The county indebtedness for which the city was responsible was paid off by the latter to the net amount of $119,750.00 within two years.

Only $27,000 of the new bonds were issued against these reductions; a net reduction of the bonded indebtedness of $112,950 took place, while the new issues represented permanent improvements.

A new set of books were operated, and the city's business handled like that of "an up-to-date mercantile establishment."

All bills due from the city were paid before the tenth of each month.

Appointments were made on account of fitness, regardless of party affiliations.

Property values largely increased and the volume of real estate transfers showed unprecedented growth of the city.

New factories were built which give employment to three hundred men.

All of these improved conditions were brought about without increased taxation, despite a loss of $80,000.00 a year from illegal saloon licenses.

4.—In Des Moines, Iowa

The city's net loss in the last year of the old government was $134,510.62; the net gain in the first year under the new charter was $48,439.10; a total relative saving of $182,949.65.

The tax levy for city purposes in the last year of the old charter was 38.7 mills (on the twenty-five per cent. valuation established by law); the first year under the new charter it was 36.4 mills.

Public improvements to the value of $357,755.50 were made during the first year under the new system.

Contractors were held strictly to the specifications and claims for extras, which had grown into a crying abuse, were firmly rejected; the quality of all public work visibly improved.

Several carloads of inferior creosote paving blocks were rejected.

A modern bookkeeping system was installed.

Municipal expenditures were held strictly within the city's revenues, ending the practise of piling up yearly deficits, to which almost the entire city bonded debt was due.

Numerous leaks were stopt; all the licenses collected were turned into the treasury.

Street lights, formerly costing $75 to $95, were reduced to a uniform rate of $65 per arc per year, and the moonlight schedule abolished, insuring better service.

Incandescent lights were reduced from $24 to $17 in some cases and the all-night schedule was substituted for a moonlight schedule in others, at the same price, $17.

All public work was promptly done; complaints were given immediate attention.

The streets were kept noticeably cleaner; the alleys in business sections, never before cleaned at all, were now thoroughly cleaned.

Street signs were put up throughout the city, years of clamor for it having failed to induce the old government to make this improvement.

The wages of men with teams were increased from $3.50 to $4.50; those of day laborers from $2.00 to $2.25; much better service was required.

The quality of public service in all departments was noticeably bettered.

The cost of cleaning catch-basins was reduced from $1.40 to $1.12.

Uniform cement walks were laid throughout the business section.

Bridge paving under the old system cost $4.74 per

yard by contract; under the new system it was done by day labor for $4.09.

Culverts costing $17.61 per cubic yard under the old plan, were built for $12.63 under the new.

Mowing in the parks was done at 75 per cent. of the old cost.

Work done by contract was let to the lowest bidders, without manipulation.

The "Red Light" district, operated under the corrupt and unlawful monthly fining system, was entirely abolished.

Bond sharks who owned the segregated red light district and opprest the inmates of disorderly houses were driven from business.

Public gambling houses, previously operated under police protection, were closed.

Petty gambling devices, such as slot machines, formerly protected, were effectually prohibited.

Ordinances regulating saloons were strictly and uniformly enforced.

Friendly, but mutually self-respecting, relations between the city government and public service corporations were established.

City politics were entirely divorced from state and national politics.

Private enterprise and public spirit were remark-

ably stimulated; over $400,000 was raised for public purposes by citizens in two years. A great Coliseum, new Y. M. C. A. and Y. W. C. A. buildings were provided, etc.

The city, formerly notorious for "divisive strife," became notably harmonious.

The confidence of citizens in the representative character of the city government was fully reestablished.

Following is a comparative statement of working funds in Des Moines in 1907 and 1908:

Cash on hand April 1, 1907.	$70,396.63		
Claims outstanding.....	55,085.83		
Excess cash over claims....		$15,310.80	
Cash on hand April 1, 1908.	$72,790.11		
Claims outstanding.....	191,989.93		
Excess claims over cash....		119,199.82	
Loss 1907 (last year under old charter)			$134,510.62
Claims outstanding April 1, 1908	$181,989.93		
Claims paid by Bond issue.	175,616.07		
Claims that were not paid by Bond issue.....		$16,373.86	
Cash on hand April 1, 1908.		72,790.11	
Excess cash over claims that were not paid by Bond issue		$56,416.25	
Carried forward		$56,416.25	$134,510.62

Brought forward		$56,416.25	$134,510.62
Cash on hand April 1, 1909.	$164.352.05		
Claims outstanding.....	59,496.77		
Excess cash over claims...		104,855.28	
Gain 1908 (first year under new charter)			48,439.03
Gain, 1908 over 1907.....			$182,949.65

5.—In Cedar Rapids, Iowa

Bonds were retired and interest paid thereon amounting to a total of $61,980.

Extensive park improvements were made.

Additional park property was acquired.

A new fire station was erected; all city buildings were put in good repair.

The island in Cedar River, formerly a dumping ground, was purchased by the city and turned into a beautiful civic center.

The services of Charles Mulford Robinson, the civic improvement expert, were secured and, following his advice, streets were extended, street signs were erected, waste paper receptacles provided, etc.

Public work of all kinds was done on a large scale, and well done.

The receipts from the police court increased from

$75 to about $700 per month without an increase of arrests.

License taxes were impartially collected.

Milk and meat inspection laws were enforced.

Five patrolmen were added to the city police force.

Gamblers were driven from the city.

The social evil was segregated and put under severe restrictions.

Defective paving was rejected; contractors were held to the specifications.

Cash discount was taken on all city bills.

Interest was collected on city balances in banks.

The city's credit was established at the highest standard.

Business methods were introduced in all departments of the city government.

Complaints from citizens were given immediate attention. Civic pride was awakened.

The growth of the city was largely accelerated.

APPENDICES

APPENDIX A

TEXT OF THE DES MOINES CHARTER

PASSED by the Thirty-second General Assembly of Iowa and adopted at a special election held June 20, 1907, by a vote of 6,365 to 2,278. The election of the first Council provided for in the act took place in March, 1908. The new charter became operative April 1, 1908.

AN ACT TO PROVIDE FOR THE GOVERNMENT OF CERTAIN CITIES, AND THE ADOPTION THEREOF BY SPECIAL ELECTION "ADDITIONAL TO TITLE V (FIVE) OF THE CODE."

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1.—That any city of the first class, or with special charter, now or hereafter having a population of twenty-five thousand * or over, as shown by the last preceding state census, may become organized as a city under the provisions of this act by proceeding as hereinafter provided.

SEC. 2.—Upon petition of electors equal in number

* Amended in 1909 so as to include all cities of a population of seven thousand or over.

to twenty-five per centum of the votes cast for all candidates for mayor at the last preceding city election of any such city, the mayor shall, by proclamation, submit the question of organizing as a city under this act at a special election to be held at a time specified therein, and within two months after said petition is filed. If said plan is not adopted at the special election called, the question of adopting said plan shall not be resubmitted to the voters of said city for adoption within two years thereafter, and then the question to adopt shall be resubmitted upon the presentation of a petition signed by electors equal in number to twenty-five per centum of the votes cast for all candidates for mayor at the last preceding general city election.

At such election the proposition to be submitted shall be, "Shall the proposition to organize the city of (name of city), under chapter (naming the chapter containing this act) of the acts of the Thirty-second Assembly be adopted?" and the election thereupon shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other city elections. If the majority of the votes cast shall be in favor thereof, the city shall thereupon proceed to the election of a mayor and four (4) councilmen, as hereinafter provided.

Immediately after such proposition is adopted, the mayor shall transmit to the governor, to the secretary of state, and to the county auditor, each a certificate stating that such proposition was adopted.

At the next regular city election after the adoption of such proposition, there shall be elected a mayor and four (4) councilmen. In the event, however, that the next regular city election does not occur within one year after such special election, the mayor shall, within ten days after such special election, by proclamation, call a special election for the election of a mayor and four councilmen, sixty days' notice thereof being given in such call; such election in either case to be conducted as hereinafter provided.

SEC. 3.—All laws governing cities of the first class and not inconsistent with the provisions of this act, and Sections 955, 956, 959, 964, 989, 1000, 1023 and 1053 of the Code, now applicable to special charter cities and not inconsistent with the provisions of this act, shall apply to and govern cities organized under this act. All by-laws, ordinances and resolutions lawfully passed and in force in any such city under its former organization shall remain in force until altered or repealed by the council elected under the provisions of this act. The territorial limits of such city shall remain the same as under its former organization,

and all rights and property of every description which were vested in any such city under its former organization shall vest in the same under the organization herein contemplated, and no right or liability either in favor of or against it, existing at the time, and no suit or prosecution of any kind shall be affected by such change, unless otherwise provided for in this act.

SEC. 4.—In every such city there shall be elected at the regular biennial municipal election, a mayor and four councilmen.

If any vacancy occurs in any such office, the remaining members of said council shall appoint a person to fill such vacancy during the balance of the unexpired term.

Said officers shall be nominated and elected at large. Said officers shall qualify and their terms of office shall begin on the first Monday after the election. The terms of office of the mayor and councilmen or aldermen in such city in office at the beginning of the terms of office of the mayor and councilmen first elected under the provisions of this act shall then cease and determine, and the terms of office of all other appointive officers in force in such city, except as hereinafter provided, shall cease and determine as soon as the council shall by resolution declare.

SEC. 5.—Candidates to be voted for at all general municipal elections at which a mayor and four councilmen are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Monday preceding the general municipal election. The judges of election appointed for the general municipal election shall be the judges of the primary election, and it shall be held at the same place, so far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election.

Any person desiring to become a candidate for mayor or councilman shall, at least ten days prior to said primary election, file with the said clerk a statement of such candidacy, in substantially the following form:

State of Iowa.....County.....ss:

I (.....), being first duly sworn, say that I reside at.....street, city of.....county of ....., state of Iowa; that I am a qualified voter therein; that I am a candidate for nomination to the

office of (mayor or councilman), to be voted upon at the primary election to be held on the..... Monday of.....19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

Signed.....

Subscribed and sworn to (or affirmed) before me by.....on this.....day of.....19...

Signed.....

and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

PETITION ACCOMPANYING NOMINATING STATEMENT

The undersigned, duly qualified electors of the city of ....., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the .....Monday of.....19... We further state that

we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

NAMES OF QUALIFIED ELECTORS.	NUMBER.	STREET.

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city clerk shall cause to be published for three successive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspapers that may be published in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name, and immediately below the words "Vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words "Vote for four."

The ballots shall be printed upon plain, substantial, white paper, and shall be headed:

CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF.....CITY AT THE PRIMARY ELECTION.

but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(Place a cross in the square preceding the names of the parties you favor as candidates for the respective positions.)

OFFICIAL PRIMARY BALLOT

CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF.....CITY AT THE PRIMARY ELECTION

For Mayor.

☐ (Name of candidate.)
(Vote for one.)

For Councilman.

☐ (Name of candidate.)
(Vote for four.)
Official ballot attest:
(Signature)
.....
City Clerk.

Having caused said ballot to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk, upon proper blanks, to be furnished by the said clerk, within six hours of the closing of the polls. On the day following the said primary election the said city clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said city at least once, the result thereof. Said canvass by the city clerk shall be publicly made. The two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names

shall be placed upon the ballot for mayor at the next succeeding general municipal election, and the eight candidates receiving the highest number of votes for councilman, or all such candidates if less than eight, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilman at such municipal election.

All electors of cities under this act who, by the laws governing cities of the first class and cities acting under special charter, would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this act; and the ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable, and in all elections in such city the election precincts, voting places, method of conducting election, canvassing the votes and announcing the results, shall be the same as by law provided for election of officers in such cities, so far as the same are applicable and not inconsistent with the provisions of this act.

SEC. 5A.—Any person who shall agree to perform any services in the interest of any candidate for any office provided in this act, in consideration of any money or other valuable thing for such services performed in the interest of any candidate shall be pun-

ished by a fine not exceeding three hundred dollars ($300), or be imprisoned in the county jail not exceeding thirty (30) days.

SEC. 5B.—Any person offering to give a bribe, either in money or other consideration, to any elector, for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person making false answer to any of the provisions of this act relative to his qualifications to vote at said election; any person wilfully voting or offering to vote at such election who has not been a resident of this state for six months next preceding said election, or who is not twenty-one years of age, or is not a citizen of the United States, or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding or abetting any violation hereof shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined a sum of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days.

SEC. 6.—Every such city shall be governed by a council, consisting of the mayor and four councilmen,

chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the council. Three members of the council shall constitute a quorum, and the affirmative vote of three members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure, unless a greater number is provided for in this act. Upon every vote the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the council; he shall have no power to veto any measure, but every resolution or ordinance passed by the council must be signed by the mayor, or by two councilmen, and be recorded before the same shall be in force.

SEC. 7.—The council shall have and possess and the council and its members shall exercise all executive, legislative and judicial powers and duties now had, possessed and exercised by the mayor, city council, board of public works, park commissioners, board of police and fire commissioners, board of water works trustees, board of library trustees, solicitor, assessor, treasurer, auditor, city engineer, and other executive and administrative officers in cities of the first class and cities acting under special charter.

The executive and administrative powers, authority and duties in such cities shall be distributed into and among five departments as follows:

1. Department of Public Affairs.
2. Department of Accounts and Finance.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

The council shall determine the powers and duties to be performed by, and assign them to the appropriate department; shall prescribe the powers and duties of officers and employees: may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

SEC. 8.—The mayor shall be superintendent of the department of Public Affairs, and the council shall, at the first regular meeting after election of its members, designate by majority vote one councilman to be superintendent of the department of Accounts and Finance, one to be superintendent of the department of Public Safety, one to be superintendent of the de-

partment of Streets and Public Improvements, and one to be superintendent of the department of Parks and Public Property; but such designation shall be changed whenever it appears that the public service would be benefited thereby.

The council shall, at said first meeting, or as soon as practicable thereafter, elect by majority vote the following officers: A city clerk, solicitor, assessor, treasurer, auditor, civil engineer, city physician, marshal, chief of fire department, market master, street commissioner, three library trustees, and such other officers and assistants as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city; and shall appoint a police judge in those cities not having a superior court. Any officer or assistant elected or appointed by the council may be removed from office at any time by vote of a majority of the members of the council, except as otherwise provided for in this act.

SEC. 9.—The council shall have power from time to time to create, fill and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city, and may, by majority vote of all the members, remove any such officer or employee, except as otherwise provided for in this act; and may, by resolution or otherwise, pre-

scribe, limit or change the compensation of such officers or employees.

SEC. 10.—The mayor and council shall have an office at the city hall, and their total compensation shall be as follows: In cities having by the last preceding state or national census from 25,000 to 40,000 people, the annual salary of the mayor shall be $2,500, and of each councilman $1,800. In cities having by such census from 40,000 to 60,000 people, the mayor's annual salary shall be $3,000, and that of each councilman $2,500; and in cities having by such census over 60,000 population, the mayor's annual salary shall be $3,500, and that of each councilman $3,000. Such salaries shall be payable in equal monthly installments.

Any increase in salary occasioned under the provisions of this scale by increase in population in any city shall commence with the month next after the official publication of the census showing such increase therein.

Every other officer or assistant shall receive such salary or compensation as the council shall by ordinance provide, payable in equal monthly installments.

The salary or compensation of all other employees of such city shall be fixt by the council, and shall be

payable monthly or at such shorter periods as the council shall determine.

SEC. 11.—Regular meetings of the council shall be held on the first Monday after the election of councilmen, and thereafter at least once each month. The council shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two councilmen. All meetings of the council, whether regular or special, at which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the council and preside at its meetings, and shall supervise all departments and report to the council for its action all matters requiring attention in either. The superintendent of the department of Accounts and Finance shall be vice-president of the council, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of the mayor.

SEC. 12.—Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any purpose, shall be complete in the

form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in any such city shall be granted, renewed or extended, except by ordinance, and every franchise or grant for interurban or street railways, gas or water works, electric light or power plants, heating plants, telegraph or telephone systems, or other public service utilities within said city, must be authorized or approved by a majority of the electors voting thereon at a general or special election, as provided in Section 776 of the Code.

SEC. 13.—No officer or employee elected or appointed in any such city shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public

utility within the territorial limits of said city. No such officer or employee shall accept or receive, directly or indirectly, from any person, firm or corporation operating within the territorial limits of said city, any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line or telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any such person, firm, or corporation, any other service upon terms more favorable than is granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor, and every such contract or agreement shall be void.

Such prohibition of free transportation shall not apply to policemen or firemen in uniform; nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this section. An officer or employee of such city who, by solicitation or otherwise, shall exert his influence, directly or indirectly, to influence other officers or employees of such city to adopt his political views or to favor any particular person or candidate for office, or who shall in any manner contribute money, labor, or other valuable thing to any person for election pur-

poses, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding three hundred dollars ($300) or by imprisonment in the county jail not exceeding thirty (30) days.

SEC. 14.—Immediately after organizing, the council shall, by ordinance, appoint three civil service commissioners, who shall hold office, one until the first Monday in April in the second year after his appointment, one until the first Monday in April of the fourth year after his appointment, and one until the first Monday in April of the sixth year after his appointment. Each succeeding council shall, as soon as practicable after organizing, appoint one commissioner for six years, who shall take the place of the commissioner whose term of office expires. The chairman of the commission for each biennial period shall be the member whose term first expires. No person while on the said commission shall hold or be a candidate for any office of public trust. Two of said members shall constitute a quorum to transact business. The commissioners must be citizens of Iowa, and residents of the city for more than three years next preceding their appointment.

The council may remove any of said commissioners during their term of office for cause, four councilmen voting in favor of such removal, and shall fill

any vacancy that may occur in said commission for the unexpired term. The city council shall provide suitable rooms in which the said civil service commission may hold its meetings. They shall have a clerk, who shall keep a record of all its meetings, such city to supply the said commission with all necessary equipment to properly attend to such business.

(a) Before entering upon the duties of their office, each of said commissioners shall take and subscribe an oath, which shall be filed and kept in the office of the city clerk, to support the constitution of the United States and of the state of Iowa, and to obey the laws, and to aim to secure and maintain an honest and efficient force, free from partizan distinction or control, and to perform the duties of his office to the best of his ability.

(b) Said commission shall, on the first Monday of April and October of each year, or oftener if it shall be deemed necessary, under such rules and regulations as may be prescribed by the council, hold examinations for the purpose of determining the qualifications of applicants for positions, which examination shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. Said commission shall, as soon as possible after such ex-

amination, certify to the council double the number of persons necessary to fill vacancies, who, according to its records, have the highest standing for the position they seek to fill as a result of such examination, and all vacancies which occur, that come under the civil service, prior to the date of the next regular examination, shall be filled from said list so certified; provided, however, that should the list for any cause be reduced to less than three for any division, then the council or the head of the proper department may temporarily fill a vacancy, but not to exceed thirty days.

(c) All persons subject to such civil service examinations shall be subject to removal from office or employment by the council for misconduct or failure to perform their duties under such rules and regulations as it may adopt, and the chief of police, chief of the fire department, or any superintendent or foreman in charge of municipal work, may peremptorily suspend or discharge any subordinate then under his direction for neglect of duty or disobedience of his orders, but shall, within twenty-four hours thereafter, report such suspension or discharge, and the reason therefor, to the superintendent of his department, who shall thereupon affirm or revoke such discharge or suspension, according to the facts. Such employee (or the officer

discharging or suspending him) may, within five days of such ruling, appeal therefrom to the council, which shall fully hear and determine the matter.

(d) The council shall have the power to enforce the attendance of witnesses, the production of books and papers, and power to administer oaths in the same manner and with like effect, and under the same penalties, as in the case of magistrates exercising criminal or civil jurisdiction under the statutes of Iowa.

Said commissioners shall make annual report to the council, and it may require a special report from said commission, at any time; and said council may prescribe such rules and regulations for the proper conduct of the business of the said commission as shall be found expedient and advisable, including restrictions on appointment, promotions, removals for cause, roster of employees, certification of records to the auditor, and restrictions on payment to persons improperly employed.

(e) The council of such city shall have power to pass ordinances imposing suitable penalties for the punishment of persons violating any of the provisions of this act relating to the civil service commission.

(f) The provisions of this section shall apply to all appointive officers and employees of such city, except

those especially named in Section 8 of this act, commissioners of any kind, laborers whose occupation requires no special skill or fitness, election officials, and mayor's secretary and assistant solicitor, where such officers are appointed; provided, however, that existing employees heretofore appointed or employed after competitive examination or for long service under the provisions of Chapter 31, acts of the Twenty-ninth General Assembly, and subsequent amendments thereto, shall retain their positions without further examination unless removed for cause.

All officers and employees in any such city shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations.

It shall be unlawful for any candidate for office, or any officer in any such city, directly or indirectly, to give or promise any person or persons any office, position, employment, benefit, or anything of value, for the purpose of influencing or obtaining the political support, aid or vote of any person or persons.

Every elective officer in any such city shall, within thirty days after qualifying, file with the city clerk, and publish at least once in a daily newspaper of general circulation, his sworn statement of all his elec-

tion and campaign expenses, and by whom such funds were contributed.

Any violation of the provisions of this section shall be a misdemeanor and be a ground for removal from office.

SEC. 15.—The council shall each month print in pamphlet form a detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding month, and furnish printed copies thereof to the state library, the city library, the daily newspapers of the city, and to persons who shall apply therefor at the office of the city clerk. At the end of each year the council shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in the manner above provided for publication of statements of monthly expenditures.

SEC. 16.—If, at the beginning of the term of office of the first council elected in such city under the provisions of this act, the appropriations for the expenditures of the city government for the current fiscal year have been made, said council shall have power, by ordinance, to revise, repeal or change said appropriations and to make additional appropriations.

SEC. 17.—In the construction of this act the follow-

ing rules shall be observed, unless such construction would be inconsistent with the manifest intent, or repugnant to the context of the statute:

1. The words "councilman" or "alderman" shall be construed to mean "councilman" when applied to cities under this act.

2. When an office or officer is named in any law referred to in this act, it shall, when applied to cities under this act, be construed to mean the office or officer having the same functions or duties under the provisions of this act, or under ordinances passed under authority thereof.

3. The word "franchise" shall include every special privilege in the streets, highways and public places of the city, whether granted by the state or the city, which does not belong to citizens generally by common right.

4. The word "electors" shall be construed to mean persons qualified to vote for elective offices at regular municipal elections.

SEC. 18.—The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent

sought to be removed, equal in number to at least twenty-five per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city clerk shall examine, and from the voter's register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk

shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient the council shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared, in all respects as are other city elections.* The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be

* For amendment to this section, see Appendix B, page 218.

declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who received the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

SEC. 19.—Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petitions under Section 18 hereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty-five per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the council, such council shall either

(a) Pass such ordinance without alteration within

twenty days after attachment of the clerk's certificate to the accompanying petition, or,

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless a general municipal election is fixt within ninety days thereafter and at such special or general municipal election, if one is so fixt, such ordinance shall be submitted without alteration to the vote of the electors of said city.

But if the petition is signed by not less than ten nor more than twenty-five per centum of the electors, as above defined, then the council shall, within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballots used when voting upon said ordinance shall contain these words: "For the ordinance" (stating the nature of the proposed ordinance), and "Against the ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be

adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the daily newspapers published in said city; such publication to be not more than twenty or less than five days before the submission of such proposition or ordinance to be voted on.

SEC. 20.—No ordinance passed by the council, except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which contains a state-

ment of its urgency and is passed by a two-thirds vote of the council, shall go into effect before ten days from the time of its final passage; and if during said ten days a petition signed by electors of the city equal in number to at least twenty-five per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance, be presented to the council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance; and if the same is not entirely repealed, the council shall submit the ordinance, as is provided by Sub-section B of Section 19 of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said Section 19, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided.

SEC. 21.—Any city which shall have operated for more than six years under the provisions of this act

may abandon such organization hereunder, and accept the provisions of the general law of the state then applicable to cities of its population, or if now organized under special charter, may resume said special charter by proceeding as follows:

Upon the petition of not less than twenty-five per centum of the electors of such city a special election shall be called, at which the following proposition only shall be submitted:

"Shall the city of (name of city) abandon its organization under Chapter — of the acts of the Thirty-second General Assembly and become a city under the general law governing cities of like population, or if now organized under special charter shall resume said special charter?"

If a majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the general law of the state for cities of like population, and upon the qualification of such officers such city shall become a city under such general law of the state; but such change shall not in any manner or degree affect the property, rights or liabilities of any nature of such city but shall merely extend to such change in its form of government.

The sufficiency of such petition shall be determined,

the election ordered and conducted, and the results declared, generally as provided by Section 18 of this act, insofar as the provisions thereof are applicable.

SEC. 22.—Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

SEC. 23.—This act being deemed of immediate importance, shall take effect and be in force from and after its publication in the *Register and Leader* and *Des Moines Capital,* newspapers published in Des Moines, Iowa.

Approved March 29, A.D. 1907.

APPENDIX B

THE RECALL PROVISION AMENDED, THE SAME BEING THE FIRST LEGISLATIVE AMENDMENT TO THE CHARTER

AN ACT to amend the law as it appears in section ten hundred fifty-six-a thirty-six (1056-a-36) of the supplement to the code, 1907, relating to the government of certain cities and the recalling of elective officers therein. Approved April 16, 1909.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1.—That section ten hundred fifty-six-a thirty-six (1056-a-36) of the supplement to the code, 1907, be amended by inserting after the word "elections" at the end of the thirty-fourth (34) line in said section the following:

"So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the clerk at least ten (10) days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote

at said special election equal in number to at least ten per centum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in section ten hundred fifty-six-a twenty-one (1056-a-21) of the supplement to the code, 1907, so far as the same is applicable, substituting the word 'special' for the word 'primary' in such statement and petition, and stating therein that such person is a candidate for election instead of nomination.

"The ballot for such special election shall be in substantially the following form:

OFFICIAL BALLOT

"Special election for the balance of the unexpired term of.....as.....

For.....

(Vote for one only)

(Names of candidates)

☐ .....

☐ .....

Name of present incumbent.

Official ballot attest:

(Signature)

.....

"City Clerk."

APPENDIX C

ORDINANCE UNDER WHICH THE FIRST ADMINISTRATION WAS ORGANIZED

An ordinance to distribute the executive and administrative powers, authority and duties into and among the several departments, and determine the powers and duties to be performed, and assign them to the appropriate departments and officers.

(Passed July 6, 1908.)

Be it Ordained by the City Council of the City of Des Moines:

SECTION 1.—That the executive and administrative powers, authority and duties in the city are distributed into and among the several departments and the powers and duties to be performed are determined and assigned to the appropriate departments and officers, all as hereinafter set forth.

THE COUNCIL

SEC. 2.—The Council has and shall exercise all legislative powers, functions and duties conferred upon

the city or its officers. It shall make all orders for the doing of work, or the making or construction of any improvement, bridge or building. It shall levy all taxes, apportion and appropriate all funds, and audit and allow all bills, accounts, pay-rolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed. It shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council. All contracts and all ordinances and resolutions making contracts or authorizing the making of contracts shall be drawn by the Corporation Counsel or City Solicitor, or approved by such officer, before the same is made or passed. All superintendents of departments and officers are the agents of the Council only, and all their acts shall be subject to review and to approval or revocation by the Council. Every superintendent or officer shall, from time to time, as required by law or ordinance, or when requested by the Council, or whenever he shall deem necessary for the good of the public service, report to

the Council in writing respecting the business of his department or office or matters connected therewith.

The Council may, by ordinance or resolution, assign to a superintendent, officer or employee, duties in respect to the business of any other department, office or employment, and such service shall be rendered without additional compensation.

Department of Public Affairs

Sec. 3.—The Mayor shall have and exercise all the powers and perform all the duties provided or prescribed by law or the ordinances of the city, not in conflict with the provisions of this ordinance. The Mayor shall be Superintendent of the Department of Public Affairs, and as such shall have general supervision and oversight over all departments and offices in the city; he shall be the chief executive officer and representative of the city, shall sign all contracts on behalf of the city, and shall have charge of and cause to be prepared and published all statements and reports required by law or ordinance or by resolution of the Council. The Mayor shall be chairman of the local Board of Health; shall possess all of the powers and perform all of the duties pertaining to the local Board of Health, as is now or may hereafter be re-

quired by the laws of the state and the ordinances of the city. All notices of quarantine and release must bear his signature.

The Corporation Counsel, City Solicitor, and Assistant City Solicitor, City Stenographer, and other officers and employees of the Legal Department, the Police Court, the Police Judge, and Clerk of Police Court, the City Library and Library Building, and Library Trustees, and other officers and employees in the Library; the Civil Service Commission, and all other officers or functionaries not by law or ordinance distributed or assigned to some other department, are distributed and assigned to the Department of Public Affairs.

Department of Accounts and Finance

Sec. 4.—The Superintendent of the Department of Accounts and Finance shall have charge of and supervision over all accounts and records of the city, and all officers, boards or departments required to keep or make accounts, records or reports. He shall inspect or cause to be inspected all records or accounts required to be kept in any of the offices or departments of the city, and shall cause proper accounts and records to be kept and proper reports to be made. He shall audit or cause to be audited at frequent intervals

the accounts of every officer or employee who does or may receive or disburse money. He shall have charge of the purchase, care and distribution of all supplies and other articles not otherwise provided by law. He shall have charge and supervision over all printing by or for the city, unless otherwise provided by law. He shall examine or cause to be examined, and report to the Council, upon all bills, accounts, pay-rolls and claims before they are acted upon or allowed, unless otherwise provided by law.

The Assessor, Auditor, Treasurer, License Collector, City Clerk* and Market Master, and their respective offices or departments, and all employees therein, and all bookkeepers and accountants are distributed and assigned to the Department of Accounts and Finance, and shall be under the supervision and direction of the Superintendent thereof.

The Superintendent of the Department of Accounts and Finance shall procure from all persons and corporations operating public service utilities in the city such reports as they are by law or ordinance or otherwise required to make to the city, or any of its officers, and procure copies of such reports as are made to the state or any public office or department, and shall col-

* By a later ordinance, the city clerk was transferred to the Department of Public Affairs.

lect, or cause to be collected, all license fees, franchise taxes, rentals or other moneys which may be due or become due to the city. He shall report to the City Council any failure to make reports or to pay moneys due to the city with such recommendations in relation thereto as he may deem proper. He shall, whenever the city has authority so to do, cause to be examined the accounts and records of any person or corporation operating a public service utility in the city, and shall report to the Council any refusal to permit such examination, with such recommendations in relation thereto as he may deem proper.

Department of Public Safety

Sec. 5.—The Marshal, Chief of Police and Police Department, and all policemen, officers and employees therein, and all police stations and property and apparatus used in said Police Department; the Chief of Fire Department, and the Fire Department, and all firemen, officers and employees therein, and all fire stations and property and apparatus used in said Fire Department; the fire and police alarm system, and all property and apparatus belonging thereto; the City Physician, Assistant City Physician, Board of Health, health officers, and all officers and employees in their

respective offices or in the Health Department of the city, and the City Hospital and employees therein, and all buildings, property and apparatus belonging to or used in said offices and department; the Fire Marshal, Inspector of Plumbing, City Electrician, Electrical Inspector, and their offices, and all property and apparatus used therein, are all distributed and assigned to the Department of Public Safety.

The Superintendent of the Department of Public Safety shall have charge of and supervision and direction over all officers and employees assigned to said department, and over all said buildings, property and apparatus. He shall have charge of all purchases of horses, apparatus and supplies for said department, or the offices and departments assigned thereto. He shall have charge of and supervision over the removal and disposal of garbage. He shall have supervision over the construction and repair of all buildings assigned to said department, and may, on application, receive assistance therein from other officers and departments of the city.

Department of Streets and Public Improvements

Sec. 6.—The Superintendent of the Department of Streets and Public Improvements shall superintend

and take charge of all public work, the cleaning of streets and public places, the entire erection, making and reconstruction of all street improvements, sidewalks, sewers, bridges, viaducts, and public buildings and other improvements, and of the repair thereof, where not otherwise assigned. He shall approve the estimates of the City Engineer, which may be made from time to time, of the cost of such work, as the same progresses, and accept any building erected, work done or improvement made when completed according to contract, and perform such other duties as may be provided or required by ordinance or resolution. He shall have control, management and direction of the lighting of streets and alleys, of public grounds and buildings not otherwise assigned, and of all lamps, lights, lighting materials and persons charged with the care thereof. He shall have charge of enforcing the provisions of law or ordinances relating to billboards. He shall have control and supervision over all public dumping grounds and dumps. He shall have supervision over all public service utilities and all persons or corporations rendering service in the city under any franchise, contract or grant made or granted by the city or state, and shall report to the Council or other proper officer any failure of said person or corporation to render service or to observe the requirements

or conditions of the franchise, contract or grant under which such public service utility is operated.

The Civil Engineer and Engineer's Department, and employees therein; Street Commissioner, inspectors and all other officers and employees employed in connection with the work of said department, are distributed and assigned to the Department of Streets and Public Improvements, and shall be under the supervision and direction of the Superintendent thereof.

Department of Parks and Public Property

Sec. 7.—The Superintendent of Parks and Public Property shall have charge of and supervision over Greenwood Park, Waveland Park, Grand View Park, Union Park and Birdland, South Park, Good Park, City Bath House and Park, Bates Park, Hoyt Sherman Place, Nash Park, the Library grounds, River Front Park, and park at Raccoon Forks; of so much of Des Moines and Raccoon rivers and their banks as belong to the city or are under its control, and of all other public parks and pleasure grounds in the city, and of all officers and employees, including park policemen, employed in or about said parks and pleasure grounds, and of all property belonging to said parks and pleasure grounds, or kept or used in connection therewith. He shall have charge of and supervision

over the City Hall and Janitor thereof, and the park or grounds adjoining said City Hall. He shall have charge of and supervision over Woodland Cemetery, Glendale Cemetery, Laurel Hill Cemetery, and all other public cemeteries in the city, and of the sextons and other employees in the cemeteries, and of all property belonging to or used or kept in connection with the public cemeteries. He shall have charge of and supervision over Tracy Home property, the abandoned fire station at Seventeenth and Crocker streets, and all other property owned or controlled by the city and not assigned to some other department. He shall have charge of and supervision over all boulevard and street parkings and park ways. He shall have charge of and supervision over the improvements, maintenance, lighting and care of all said parks, pleasure grounds and cemeteries, and of the buildings therein or thereon. He shall have charge of enforcing the provisions of law and ordinances relating to the improvement and care of street parkings and the planting of trees therein. He shall have such assistance from the Civil Engineer and Engineering Department as may be necessary in surveying, laying out improvements, and otherwise improving the parks, and may, on application, receive assistance from other officers and departments of the city.

Of Appointments of Assistants and Employees

Sec. 8.—Except as otherwise provided by law or ordinance, the Superintendent of each department shall appoint or employ such assistants and employees as may be authorized by the Council and necessary to the efficient conduct of the service in said department.

Rules and Regulations

Sec. 9.—That the Superintendent of each department shall make and enforce such rules and regulations, not inconsistent with law or the ordinances or rules and regulations adopted by the City Council, as may be necessary to secure efficient conduct of the service of his department or the business in charge thereof.

Sec. 10.—This ordinance is declared to be urgent and necessary for the immediate preservation of the public peace, health and safety, and shall take effect and be in force from and after its passage and publication as provided by law.

APPENDIX D

THE CHARTER DEFEATED IN 1906 (FULL TEXT)

A Bill for an Act to Provide for the Government of Certain Cities. (Amending Title V of the Code.)

Be it enacted by the General Assembly of the State of Iowa:

Section 1.—That every municipal corporation now or hereafter organized as a city of the first class, as now defined, or as a city of the second grade of the first class, as in this act defined, or as a special charter city, and which has or shall have, according to any state or national census, a population of twenty-five thousand or over, and which shall organize as such under the provisions of this act, shall be a city of the first grade of the first class, and be subject to the provisions of this act. Every other municipal corporation, now or hereafter organized as a city of the first class, shall be a city of the second grade of the first class, and be subject to the laws governing cities of the first class as now organized.

Any city incorporated under general laws or special charter, and having, according to any state or national census, a population of twenty-five thousand or over, may abandon its existing organization or charter and organize as a city of the first grade of the first class, with the same territorial limits, and be subject to the provisions of this act by pursuing the course hereinafter prescribed.

SEC. 2.—Upon petition of one hundred citizens of any such city, the mayor shall by proclamation submit the question of organization as a city of the first grade of the first class under the provisions of this act at the next regular city election occurring within two months and more than ten days after said petition is filed with the city clerk or recorder. If the next regular city election shall occur more than two months or less than ten days after said petition is filed with the city clerk or recorder, then said question shall be by the mayor by proclamation submitted at a special election to be held within two months after said petition is filed.

At such election the proposition to be submitted shall be: "Shall the proposition to organize the city of (naming the city) as a city of the first grade of the first class be adopted?" And the election shall be conducted, the vote canvassed, and the result de-

clared in the same manner as provided by law in respect to other city elections, except that the ballot containing said proposition shall be separate from the other ballots voted at such election. If the majority of the votes cast shall be in favor thereof, the city shall thereby be and become a city of the first grade of the first class, and be subject to the provisions of this act.

At such election there shall be elected a judge of superior court, a mayor, and four commissioners; and if the proposition to reorganize such city shall be adopted, said officers shall qualify and hold office until their successors are elected and qualified. Immediately after such election, the mayor shall transmit to the Governor, to the Secretary of State, and to the County Auditor, each a certificate showing that said proposition was adopted, and the names of the judge, mayor, and commissioners elected, and thereupon the Governor shall issue to the judge a commission empowering him to act as by law provided. The nomination of candidates for said offices to be voted for at said election shall be by petition.

SEC. 3.—All laws governing cities of the first class, and not inconsistent with the provisions of this act, shall apply to and govern cities of the first grade of the first class; and every such city shall be subject

to the provisions of sections nine hundred and fifty-five (955), nine hundred and fifty-six (956), nine hundred and fifty-nine (959), nine hundred and sixty-four (964), nine hundred and eighty-nine (989), one thousand (1000), one thousand and twenty-three (1023), and one thousand and fifty-three (1053), of the Code, now applicable to special charter cities, not inconsistent with the provisions of this act. All by-laws, ordinances, and resolutions lawfully passed and in force in any such city under its former organization shall remain in force until altered or repealed by the commission elected under the provisions of this act. All rights and property of every description which were vested in any such city under its former organization shall vest in the same under the organization herein contemplated; and no right or liability, either in favor of or against it, existing at the time, and no suit or prosecution of any kind shall be affected by such change; but when a different remedy is given by this act which can be made properly applicable to any right existing at the time such change is made, the same shall be cumulative to the remedies before provided, and may be used accordingly.

SEC. 4.—In every such city there shall be established a Superior Court, which shall be organized and controlled as provided in Chapter six (6) title three

(III) of the code and amendments thereto. At the first election of city officers under the provisions of this act, and thereafter as provided by law, there shall be elected a judge of said court.

SEC. 5.—In every such city there shall be elected at the regular biennial municipal election a mayor and four commissioners. Any vacancy occurring in any such office shall be filled at a special election to be called by the mayor within one month after such vacancy occurs. Said officers shall be nominated and elected by the whole electorate of such city. The terms of office of said officers shall begin on the first Monday after their election. The terms of office of the mayor and councilmen or aldermen in such city in office at the beginning of the term of office of the mayor and commissioners first elected under the provisions of this act shall then cease and determine; and the terms of office of all other elective and appointive officers then in office in such city shall cease and determine as soon as the officers elected or appointed to perform their duties shall be elected, or appointed and qualified, or as soon as the commission shall by resolution declare.

SEC. 6.—All nominations of candidates for offices to be voted for at any election held in any such city, or under the provisions of this act, shall be by peti-

tion, as provided in sections eleven hundred (1100) to eleven hundred and four (1104), both inclusive, of the code; but such petition shall be signed by not less than three hundred (300) qualified voters, shall not contain any designation of a party or statement of political principles, shall be accompanied by an affidavit by the candidate stating that he is in good faith a candidate for said office and for the election provided for in section two (2) of this act, shall be filed not more than forty nor less than eight days before the day fixt for holding the election, and for any other election shall be filed not more than sixty nor less than twenty days before the day fixt for holding the election.

The form of ballot and the method of conducting the election, canvassing the vote, and declaring the result shall be the same as provided by law for other elections, except that the ballot shall not contain the name of a political party or any political emblem or statement of principles; and the names of all candidates for any office shall be printed in one column in alphabetical order; the columns to be headed by the words: "For (name of office)" in one line to be followed by the words: "vote for (number to be elected)" in one line followed by the names of candidates each preceded by a square.

SEC. 7.—Every such city shall be governed by a commission, consisting of the mayor and four commissioners, chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the commission. Three members of the commission shall constitute a quorum, and the affirmative vote of three members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure, unless a greater number is required by law. Upon every vote the yeas and nays shall be called and recorded; and every motion, resolution, or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the commission; he shall have no power to veto any measure, but every resolution or ordinance passed by the commission must be signed by the mayor, or by two commissioners, and be recorded before the same shall be in force.

SEC. 8.—The commission shall have and possess, and the commission and its members shall exercise and perform all executive, legislative and judicial powers and duties now had, possessed, exercised and performed by the mayor, city council, board of public works, park commissioners, board of police and fire commisioners, board of water works trustees, board of library trustees, solicitor, assessor, treasurer,

auditor, city engineer, and other executive and administrative officers in cities of the first class. The executive and administrative powers, authority, and duties in such cities shall be distributed into and among five departments, as follows:

1. Department of Public Affairs.
2. Department of Accounts and Finances.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

The commission shall from time to time by ordinance provide for the distribution of powers and authority among the several departments; shall prescribe the powers and duties of officers and employees; may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

SEC. 9.—The mayor shall be superintendent of the Department of Public Affairs, and the commission shall at the first regular meeting after election of its members, designate by majority vote one commis-

sioner to be superintendent of the Department of Accounts and Finances; one to be superintendent of the Department of Public Safety; one to be superintendent of the Department of Streets and Public Improvements; and one to be superintendent of the Department of Parks and Public Property.

The commission shall at said first meeting, or as soon as practicable thereafter, elect by majority vote the following officers: a city clerk, solicitor, assessor, treasurer, auditor, civil engineer, city physician, marshal, chief of fire department, market master, street commissioner, three library trustees and such other officers and assistants as shall be provided for by ordinance, and necessary to the proper and efficient conduct of the affairs of the city. Any officer or assistant elected or appointed by the commission may be removed from office at any time by vote of a majority of the members of the commission.

SEC. 10.—The commission shall have power from time to time to create, fill, and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city; and may by majority vote of all the members, remove any such officer or employee; and may by resolution or otherwise prescribe, limit, or change the compensation of such officers or employees.

SEC. 11.—The mayor shall have an office at the City Hall, and shall devote to the duties of his office at least six hours of his time each business day; and shall receive a salary of three thousand (3000) dollars per year, payable in equal monthly instalments. Each commissioner shall receive a salary of two thousand (2000) dollars per year, payable in equal monthly instalments.

Every other officer or assistant shall receive such salary or compensation as the commission shall by ordinance provide, in equal monthly instalments.

The salary or compensation of all other employees of such city shall be fixt by the commission, and shall be payable monthly, or at such shorter periods as the commission shall determine.

SEC. 12.—Regular meetings of the commission shall be held on the first Monday after the election of commissioners, and thereafter at least once each month. The commission shall provide by ordinance for the time of holding regular meetings, and special meetings may be called from time to time by the mayor or two commissioners. All legislative meetings of the commission, whether regular or special, shall be open to the public, and all other meetings, at which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the commission and preside at its meetings; the superintendent of the Department of Accounts and Finances shall be vice-president of the commission, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of mayor.

SEC. 13.—Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any private purpose, shall be completed in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges, or public places in any such city shall be granted, renewed, or extended except by ordinance; every such ordinance shall provide for reasonable and adequate compensation to the city, and every such franchise or grant must be authorized or approved by a majority of the electors voting thereon at a general or special election.

SEC. 14.—No officer or employee, elected or appointed in any such city, shall be interested directly or indirectly, in any contract or job for work or mate-

rials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating a railway, interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of said city. No such officer or employee shall accept or receive directly or indirectly from any person, firm or corporation operating within the territorial limits of said city any railway, interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, or telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket, or free service, or accept or receive, directly or indirectly, from any such person, firm, or corporation any other service upon terms more favorable than is granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor, and every such contract or agreement shall be void.

SEC. 15.—The commission shall by ordinance provide rules and regulations for determining the quali-

fications and fitness of all applicants for appointment or employment in such city. All clerks, bookkeepers, inspectors of contract work, and other employees in non-professional positions where skill and special fitness are required, shall be selected after competitive examination.

All officers and employees in any such city shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations.

It shall be unlawful for any candidate for office or any officer in any such city, directly or indirectly, to give or promise any person or persons any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid, or vote of any person or persons.

Every elective officer in any such city shall within thirty days after qualifying file with the city clerk, and publish at least once in a daily newspaper of general circulation in such city, his sworn statement of all his election and campaign expenses and by whom such funds were contributed.

Any violation of the provisions of this section shall be a misdemeanor, and be a ground for removal from office.

SEC. 16.—The commission shall each month print in pamphlet form a detailed itemized statement of all expenses of the city during the preceding month, and furnish printed copies thereof to the state library, the city library, the daily newspapers of the city, and to persons who shall apply therefor at the office of the city clerk. At the end of each year the commisssion shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in the manner above provided for publication of statements of monthly expenditures.

SEC. 17.—If, at the beginning of the term of office of the first commission elected in such city under the provisions of this act, the appropriations for the expenditures of the city government for the current fiscal year have been made, said commission shall have power by ordinance to revise, repeal, or change said appropriations, and to make additional appropriations.

SEC. 18.—In the construction of this act the following rules shall be observed, unless such construction would be inconsistent with the manifest intent, or repugnant to the context of the statute:

1. The words "council" and "councilman" or "alderman" shall be construed to mean "commis-

sion" or "commissioner" when applied to cities of the first grade of the first class;

2. When an office or officer is named in any law referred to in this act, it shall, when applied to cities of the first grade of the first class, be construed to mean the office or officer having the same functions or duties under the provisions of this act, or under ordinances passed under authority thereof;

3. The words "city" and "such city" when used in this act shall be construed to mean a city of the first grade of the first class;

4. The word "franchise" shall include every special privilege in the streets, highways, and public places of the city, whether granted by the state or the city, which does not belong to citizens generally by common right.

SEC. 19.—The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least fifteen (15) per centum of the entire vote for all candidates for the office, the incumbent of which is sought to be removed, cast at the last preceding general municipal election,

demanding an election of a successor of the person sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the commission shall allow him extra help for that purpose; and he shall attach to said petition his certificate showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to

the filing of new petition to the same effect. If the petition shall be found to be sufficient, the clerk shall submit the same to the commission without delay. If the petition shall be found to be sufficient, the commission shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the commission that a sufficient petition is filed.

The commission shall make or cause to be made publication of notice and all arrangements for holding such election; and the same shall be conducted, returned, and the result thereof declared, in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and, unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify within ten days after receiv-

ing the notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

SEC. 20.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, so far as they relate to cities of the first grade of the first class.

SEC. 21.—This act being deemed of immediate importance, shall take effect and be in force from and after its passage and its publication in the *Register and Leader,* the *Des Moines Daily News,* and the *Daily Capital,* newspapers printed and published at Des Moines, Iowa.

APPENDIX E

THE PLAN UPHELD BY THE COURTS

THE following is the full text of the opinion of Hon. James A. Howe, Judge of the District Court of Iowa in and for Polk County, rendered November 23, 1907, and later affirmed by the state supreme court, upholding the Des Moines Plan as constitutionally valid:

This case involves the validity of what is known as the "Des Moines Plan."

The issues presented are raised by demurrer, and are chiefly constitutional. That they are of great moment to the present and to the future is conceded. They are the outgrowth of fundamental differences concerning municipal government, which find expression in the contentions of the respective parties.

On the one hand, it is contended that municipal affairs should be divorced from politics; that the business of the municipal corporation should be organized, systematized and managed like that of a great private corporation; and that the way to attain these ends is through a commission, invested with the

power of the municipality, reserving to the people the privilege of recall, and the right of the initiative and referendum.

On the other hand, it is contended, that in a republic like ours, the best and safest government is that in which the voice of the people is most potential; that the power which they possess is best executed by their direct representatives; and that the retention and exercise by the people of their power in the management and control of public affairs is, and must ever remain, the bulwark of free institutions.

These differences are for the people; to them, as political questions, the court is, and must remain indifferent. The sole mission of the court is the solution of the legal problem; not whether the new plan of government is wise, or unwise, or better or worse than the old, but only is it legal?

I

In Section 7 of Chapter 48 of the acts of the Thirty-second General Assembly, it is provided that "The council shall have and possess and the council and its members shall exercise all executive, legislative and judicial powers, now had, possessed and exercised by the Mayor, City Council, Board of Public

Works, Park Commissioners, Board of Police and Fire Commissioners, Board of Water Works Trustees, Board of Library Trustees, Solicitor, Assessor, Treasurer, Auditor, City Engineer, and other executive and administrative officers in cities of the first class, and cities acting under special charter." It is contended that this act, by reason of this provision, is in contravention of Article 4, Section 4, of the Constitution of the United States, which provides that "The United States shall guarantee to every state in this Union a republican form of government."

There has been much discussion in this case concerning what constitutes a republican form of government; many definitions have been presented, and many authorities cited, only to disclose the fact that there is a wide difference of opinion on the subject among lexicographers and law writers. The definition probably more generally accepted than any other is that given by Judge Cooley in his Principles of Constitutional Law, who says: "By republican form of government is understood a government by representatives chosen by the people; and it contrasts on one side with a democracy, in which the people or community as an organized whole wield sovereign powers of government, and on the other side with the rule of one man, as king, emperor, czar or sultan, or with one class

of men, as an aristocracy." Cooley's Principles of Constitutional Law, 2nd Edition, page 202. It is doubtful, tho, if a better or more comprehensive definition of our system of government was ever given than by Abraham Lincoln when he described it as "A government of the people, by the people, for the people."

In determining the meaning of this provision of the Federal Constitution it is proper to consider the circumstances under which it was adopted. The primary purpose of the statesmen of that period was to form a union of the states. The constitutional convention labored for months to the end that it might produce an instrument broad enough to meet the requirements of all the states, and at the same time fair and just to their diversified interests; and it accomplished its purpose. The thirteen original states entered and were accepted into the Union under the constitution presented by the convention, notwithstanding the fact that some of the towns of New England were governed by a pure democracy, and notwithstanding the further fact that in the south not only towns but states were governed in a manner that verged upon an aristocracy.

But let us consider farther; the Constitution of the United States is a grant of power to the Federal government; it invests it with the power which belongs

to the United States. The Constitution of the state of Iowa is a limitation upon the power of the state; all rights, the exercise of which are not expressly, or by necessary implication, prohibited by the instrument, are reserved to the people to be exercised in the manner prescribed by law. The provision of the Constitution of the United States invoked in this case is a guarantee by the Federal government to the state; and it does not apply to a city. Cities are unknown to the National Constitution. They are organized under the state constitution and state laws.

The new plan provides for a government by representatives chosen by the people, and is clearly republican in form, but even tho it were not it would not be affected by the provision of the Constitution of the United States here invoked, for the reason that municipal corporations are mere creatures of the legislature, and subject to its control. State *v.* King, 37 Iowa, 464; Williams *v.* Eggleston, 170 U. S., 304; Brown *v.* City of Galveston, 75 S. W. R., 448; Hopkins *v.* City of Duluth, 83 N. W. R., 536; *In re* Pfahler, 88 Pac. Rep., 270.

II

Section 1 of the act in question provides, "That any city of the first class, or with special charter,

now or hereafter having a population of 25,000 or over, as shown by the last preceding state census, may become organized as a city under the provisions of this act by proceeding as hereinafter provided." The Constitution of Iowa, adopted in 1846, in Article 8, Section 2, authorized the legislature to grant special charters to cities. Under that constitution, several special charter cities were created, some of which still retain their charter. In the Constitution of 1857 this provision was omitted, which in itself was of little importance, for the reason that the legislature, in the absence of a provision in relation thereto, possessed the power; but it further provided, in Article 1, Section 6, that, "All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens privileges or immunities, which upon the same terms, shall not equally belong to all citizens." And in Article 3, Section 30, "That the General Assembly shall not pass local or special laws . . . for the incorporation of cities and towns. . . . Where a general law can be made applicable, all laws shall be general and uniform throughout the state."

It is contended that the act in question is local or special legislation within the meaning of these pro-

visions of the Constitution. The specific claim made is that the legislature has granted to the people who come within the operation of the act a privilege not enjoyed generally by the people of the state; that the classification made is based on population, and that such a classification is unconstitutional and void.

The classification made by this law is not based solely on population. Those entitled to organize under it must constitute a city of the first class or with a special charter, and must do the things required of them by the terms of the act to organize under its provisions; unless these requirements are met the mere existence of the requisite number of people does not bring them within its terms.

To constitute a valid classification two conditions are requisite; first, the act must be so framed as to extend to and embrace equally all persons who are or may be in like situation or circumstances; and, second, the classification must be natural and reasonable, not arbitrary or capricious. Sutton *v.* State, 96 Tenn., 696; State *v.* Garbroski, 111 Iowa, 496; State *ex rel* West *v.* City of Des Moines, 96 Iowa, 521.

It has long been the policy of this state to classify its cities and towns by population; thus the statute provides that every municipal corporation having a population of 15,000 or over shall be deemed a city

of the first class; that every municipal corporation having a population of 2,000 and less than 15,000 shall be deemed a city of the second class; and that every municipal corporation having a population of less than 2,000 is a town. Section 638 of the Code. Similar classifications prevail in many other states and such classifications have uniformly been approved by the court. Haskell *v.* City of Burlington, 30 Iowa, 232; State *v.* Cooley, 58 N. W. R., 150; Nichols *v.* Walter, 37 Minn., 264; City *v.* Spaude, 37 Minn., 322; Anderson *v.* Sullivan, 75 N. W. R., 8; City *ex rel* Hoagland, 51 N. J. Law, 62; State *v.* Pond, 6 S. W. R., 469; Owen *v.* Sioux City, 91 Iowa, 190.

Since the adoption of the present constitution the legislature can neither grant to a city a special charter nor amend one previously granted. *Ex parte* Pritz, 9 Iowa, 30. But a special charter city may amend its charter under the general laws. Von Puhl *v.* Hammer, 29 Iowa, 222. An act which applies only to special charter cities is not a local or special law within the meaning of the Constitution. Haskell *v.* Burlington, 30 Iowa, 232; State *v.* King, 37 Iowa, 264; Ulbrecht *v.* City of Keokuk, 124 Iowa, 1. The same is true when so limited as to apply only to a special charter city organized since a given date.

Owen *v.* Sioux City, 91 Iowa, 190. And it has been held that an act applicable to all cities having a population of over 30,000, even tho there was at that time but one such city, was not local or special legislation. Tuttle *v.* Polk, 92 Iowa, 433. Tho where the act by its terms was limited to cities which had a population of 30,000 by the census of 1885 and there was but one such city, it was held local or special legislation. State *ex rel* West *v.* City of Des Moines, 96 Iowa, 521.

"Laws are general and uniform, not because they operate upon every person in the state, for they do not, but because every person who is brought within the relations or circumstances provided for, is affected by the law. They are general and uniform in their operation upon all persons in like situation, and the fact of their being general and uniform is not affected by the number of persons within the scope of their operation." McAunich *v.* The M. & M. R. R. Co., 20 Iowa, 238. A law which operates alike upon all of a given class is not local or special legislation. U. S. Express Co. *v.* Ellison, 28 Iowa, 370. "It is not necessary to an observance of this provision that the law should operate uniformly on all the people of the state, nor, when the legislation appertains to cities, is it important that it should operate

uniformly on all cities throughout the state. But if a law is made to operate upon a particular condition as to persons or property, and is operative whenever and wherever the same conditions exist, affixing the same consequences, then it is a general law in its operation, even tho it only operates on one of the conditions or classes specified. To illustrate, we may instance the laws regulating banking, insurance, agricultural societies and the like. If a law is so framed that it does and can apply to but one bank, company or society, in its operation, it is special legislation. General legislation looks not alone to the present, but to the future; and a law which at a given time operate as to only one bank, company or society, because there is but one such, but is so framed as to operate on the same conditions, when and where they arise in the state, is a general law, and of uniform operation." State *ex rel* West *v.* City of Des Moines, 96 Iowa, 521.

The constitutions of several other states contain provisions against local or special legislation; in some of these the language is very similar to that used in the Constitution of Iowa. In some of the states the authorities are in harmony with those in our own state. State *v.* Cooley, 58 N. W. R., 150; State *ex rel* Minor, 81 N. W. R., 912; Adams *v.* City of Beloit, 81 N.

W. R., 869; *In re* Cleveland, 7 L. R. A., 431; State *ex rel* Hoagland, 51 N. J. Law, 62; People *v.* Hoffman, 5 N. E. R., 596; Lum *v.* Mayor of Vicksburg, 18 S. Rep., 476; State *v.* Bond, 6 S. W. R., 469; Owen *v.* Baer, 55 S. W. R., 644. In others it is not. Appeal of Scranton School District, 118 Penn., 176; McConihe *v.* McMurray, 17 Florida, 238; The People *ex rel* Cooper, 83 Illinois, 585; De Vine *v.* Commissioner, 84 Ill., 590; City of Reading *v.* Savage, 120 Penn. State, 198.

It is said that the Supreme Court of Iowa has never passed upon this question. In a sense that is true, but it is also true, that our Supreme Court, in construing these provisions of the Constitution has placed upon them a construction which, logically pursued, and applied to this case, inevitably leads to the conclusion that the act in question is not local or special legislation, within the meaning of the Constitution.

III

Closely allied to the question last considered is the claim that this act violates Article 3, Section 1, of the Constitution of Iowa, which provides that: "The legislative authority of this state shall be vested in a

General Assembly, which shall consist of a Senate and House of Representatives."

Under this provision of the Constitution the legislative power of this state is vested in the General Assembly; the people have no power in their primary or individual capacity to make laws, and the legislature cannot submit to the people of the entire state the question whether a proposed act shall or shall not become a law. Santo *v.* State of Iowa, 2 Iowa, 164; State of Iowa *v.* Geebrick, 5 Iowa, 491; Morford *v.* Unger, 8 Iowa, 82; State of Iowa *v.* Beneke, 9 Iowa, 205; The State *v.* Weir, 33 Iowa, 34; State *v.* King, 37 Iowa, 463; Weir *v.* Cram, 37 Iowa, 649; Barto *v.* Hemroid *et al,* 8 N. Y., 483.

If, however, a law has full and absolute vitality when it passes from the hands of the legislature, and is not dependent upon the act of the people for its vitality, the people under the rule of action therein for their government, may determine whether or not a certain thing shall be done under the law. Dalby *v.* Wolf *et al,* 14 Iowa, 228; Morford *v.* Unger, 8 Iowa, 82; Lytle *v.* May, 49 Iowa, 224; State *ex rel v.* Forkner, 94 Iowa, 1; Adams *v.* City of Beloit, 47 L. R. A., 441; Bank of Rome *v.* Village of Rome, 18 N. Y., 38; Storin *v.* Town of Genoa, 23 N. Y., 439; Gould *v.* Town of Sterling, 23 N. Y., 456; Bank of

Chemong *v.* Brown, 26 N. Y., 467; *In re* Cleveland, 7 L. R. A., 431; State *ex rel* Hoagland, 51 N. J. Law, 62; Home Insurance Company *v.* Swigert, 104 Ill., 653; Owen *v.* Baer, 55 S. W. R., 644; City of Brunswick *v.* Finney, 54 Ga., 317; County Commissioners *v.* Bladenburg, 51 Ind., 465; Clark *v.* Rogers, 81 Ky., 43; Alchorn *v.* Hammer, 38 Miss., 653; *In re* Mayor of Jersey City, 52 N. J. Law, 188.

The statutes of this state contain many provisions for the submission to the people of questions pertaining to matters of local government, and it would be no less than revolutionary for the court to place upon this provision of the Constitution a construction which when applied to the other laws of that character, would result in all of them being held unconstitutional.

IV

It is alleged in the pleadings that Section 7 of this act, in conferring upon the commissioners, "All executive, legislative and judicial powers," violates Article 3, Section 1 of the Constitution of Iowa, which provides that "The powers of the government of Iowa shall be divided into three separate departments, the legislative, the executive and iudicial; and no per-

son charged with the exercise of powers properly belonging to one of these departments, shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted."

This question is not difficult of solution. In fact, what is here complained of has heretofore been done, to some extent, in this state, and approved by our Supreme Court. And it is probably because of this fact that the claim made in the pleadings respecting this matter has not been more seriously urged in the argument of the case. In Santo *et al v.* State of Iowa, 2 Iowa, 164 (220), it is said: That it is objected "That the mayor is an executive officer, and that judicial authority is conferred upon him, in conflict with that provision of the constitution which says, that no person, charged with the exercise of powers properly belonging to one of these departments—the executive, legislative, or the judicial—shall exercise any function appertaining to either of the others. These 'departments' are the departments of the government of the State of Iowa. The mayor of the city of Keokuk is not a part of the government of Iowa. He exercises none of the functions belonging to that department. Whatever executive offices he may perform, pertain to him only as an officer of that corporation. But we

do not mean to say that he is an executive officer, in any proper sense. Similar provisions exist in the constitution of all, or nearly all, the other states, and yet from time immemorial, similar powers have been conferred upon mayors of cities. We are of opinion that the objection is not well taken."

If this act is unconstitutional because the council will have both legislative and executive powers, and authority to prescribe the functions, powers and duties, of the several departments of the city government, then for many years the cities of this state have been proceeding under invalid laws, for the statutes of Iowa have long provided: "All legislative and other powers granted to cities and towns shall be exercised by the councils, except those conferred upon some officer by law or ordinance." Sec. 668 of the Code. In addition thereto the council has been authorized to fix and prescribe the duties of other officers of the city, including its judicial officers, save and except where the same were fixt by law. Sec. 666 of the Code.

It is obvious that this provision of the Constitution relates only to the government of the state and that the government of the city is not affected thereby. The officers of a city are not a part of the state government. Santo *v.* State, 2 Iowa, 165; State *v.* Kirk, 44

Ind., 401; Waldo *v.* Wallace, 12 Ind., 569; State *v.* Wilmington Council, 3 Harr. (Del.), 294; State *v.* Gates, 190 Mo., 540; State *v.* Townsend, 78 S. W. R. (Ark.), 782; Britton *v.* Steven, 62 Mo., 370.

V

It is contended that the election which, unless enjoined, will be held for the purpose of choosing commissioners pursuant to the provisions of this law, will be illegal and void, for the reasons as given; first, that the requirements of the act relative to the manner of becoming a candidate at the primary election to be held for the purpose of selecting the candidates for mayor and councilmen, abridges the right of the citizen to hold office; and, second, that the provision that "No other names shall be placed upon the general ballot except those selected in the manner" prescribed, deprives the elector of his constitutional right to vote for whom he pleases.

The first objection is based upon the idea that the right to hold office comes within the "privileges and immunities" guaranteed by the constitution. This is an error. In a recent case it was held, that the right to hold office was not contemplated by the constitution.

That this right can be no more a natural and a personal right, nor more sacred, than the right of suffrage, and it is the general holding of the court that the right of suffrage is not a natural and personal right, but a political and civil right. It owes its existence to the constitution of civil government, and not to the personality of the individual. It is a right which is conferred, or limited, at the pleasure of the people acting in their sovereign capacity. Once granted it may be taken away by the same power that granted it, and it is therefore not a natural right, which is held inalienable. Shaw *v.* City Council of Marshalltown, 131 Iowa, 128.

The second objection hardly reaches the constitutionality of the law, for the reason that if sustained it would only result in so much of the law as is involved being stricken out, and the substitution of the general election law in the place of it; the balance of the act would stand. Santo *et al v.* State of Iowa, 2 Iowa, 164; State *ex rel* Dillon, 22 L. R. A., 124; Morford *v.* Unger, 8 Iowa, 82. And let us consider the situation presented; in so far as the primary election feature is concerned it simply prescribes a method of procuring an official ballot for the regular election which is to follow. The provision that no other names than those of the candidates nominated at the primary election

shall be placed upon the general ballot is a limitation upon the officer who makes up the official ballots, and not upon the voter. This act was not intended as a complete election law, and provides that the general election laws, when applicable and not inconsistent, shall apply to the elections held under it. It does not say that any elector may not vote for whom he pleases; and the general election law, in connection with which it is to be construed, expressly provides that the voter may "Insert in writing, in the proper place, the name of any person for whom he desires to vote, making a cross opposite thereto." Sec. 1119 of the Code. This secures to the elector all of his constitutional rights, and the court must therefore hold that the act is not unconstitutional in this respect.

VI

It is provided in Section 2 that upon petition pursuant to its provisions: "The mayor shall by proclamation submit the question of organizing as a city under this act at a special election, to be held at a time specified therein, and within two months after said petition is filed." It is alleged that "There was submitted to the vote of the electors of Des Moines

at the same special election, the question as to whether or not money should be appropriated, taxes levied, and collected for the purpose of erecting and building in the city of Des Moines a city hall." And the claim is made that the election at which the electors of Des Moines voted to organize under this law was, because of the submission to them, of the city hall proposition on the same day, illegal and void.

There are two kinds of elections. One a regular election, or an election at a time fixt by law, and the other a special election, or an election called pursuant to law. The election in question was clearly a special as distinguished from a regular election. The only limitation placed upon the mayor in calling it was that it should be within two months after the petition was filed. In view of the many candidacies and other questions which, under our law, may be submitted to the electors on a regular election day there seems to have been no impropriety in permitting them to pass on these two questions in one day, especially in view of the saving of money and effort thereby accomplished. In fact, to do so, was in harmony with that purpose which has abolished annual and substituted biennial elections. There is nothing in the law prohibiting the electors passing upon those two questions on the same day and in the absence of such a provision the court

would not be justified in holding the election void on this ground.

VII

Sections 18, 19 and 20 relate respectively to the "Recall," "Initiative," and "Referendum." These sections are assailed as being contrary to the requirement of the state Constitution, that the legislative authority of this state shall be vested in the General Assembly.

The purpose of this action is to enjoin the defendants from calling or holding an election for the purpose of electing a mayor and four councilmen and installing them in office under the new form of government; it has nothing to do with anything involved in any of these three sections, which relate entirely to the recall, initiative and referendum. It will not be until after the new officers are elected, and the new government put into operation, that any action will be possible under these sections of the statute. This being true it necessarily follows that their constitutionality in no manner affects the balance of the law, unless the balance of the law be, in some manner, dependent upon their provisions; but it is not. In so far as this case

is concerned these questions are purely academic, and therefore are not determined.

VIII

From an early date in the history of this state cities and incorporated towns have had the power to acquire, ornament, improve and maintain public parks. The first park commission law, however, was not enacted until 1884, and was known as Chapter 151 of the Acts of the Twentieth General Assembly. Since then, from time to time, the law has been modified and amended, until the Thirty-second General Assembly repealed it, as it then existed, and then enacted as a substitute therefor Chapter 42 of the Acts of the Thirty-second General Assembly, which provides for the election of park commissioners, who shall serve as provided therein. Because of the enactment of this statute about the same time and by the same general assembly that enacted the statute authorizing the commission plan of city government, it is contended that its operation will not be affected or suspended by the organization of the city of Des Moines under the commission plan, as provided in Chapter 48 of the Acts of the Thirty-second General Assembly; and that the present

park commissioners will continue in office notwithstanding such organization of the city of Des Moines.

Prior to July 4, 1907, the former park law as found in " Sections 850 and 862 of the Code inclusive, and Sections 850 to 862 of the Supplement to the Code inclusive, and amendments thereto," existed and was in force; on that date, by reason of its repeal, it ceased, and as the result of its enactment in lieu thereof Chapter 42 of the Acts of the Thirty-second General Assembly became effective. Since then, all park commissioners in this state have been acting under and by authority of the new instead of the old park law.

Tho the new law for the government of cities became complete with its publication on the first day of April, 1907, and the people of Des Moines have since voted to organize under it, the actual change from the old to the new form of city government will not take place until " the election of a mayor and four councilmen," and until such officers " qualify," as provided in the act. But when so elected and qualified they will have, possess and exercise all the powers of the municipal government; then all the present offices cease and determine by operation of law, or may by the act of the council; and the operation of all laws then existing in relation thereto will be suspended while such commission plan continues.

There is nothing in Chapter 42 of the Acts of the Thirty-second General Assembly which indicates an intent or purpose on the part of the legislature to continue the Board of Park Commissioners in any city which shall organize under the commission plan; on the contrary Chapter 48 of the Acts of the Thirty-second General Assembly expressly abolishes "Park Commissioners," and creates a "Department of Parks and Public Property," at the head of which is placed one of the commissioners. An office is "A right to exercise a public function or employment, and to take the fees or emoluments belonging to it." When these rights are taken from a person such a person ceases to be an officer. When they are bestowed upon another, such person becomes an officer. There is no reason to believe that the legislature intended that the park commissioners should continue in office after the commission system of government became effective; on the contrary, there is every reason to believe that it did not so intend. It is a well established rule that statutes are to be construed according to the intent of the legislature. As is said a "thing within the intention is within the statute, tho not within the letter, and the thing not within the letter is not within the statute unless within the intention." Potter's Dwar. St., 144; Campbell Admr. *v.* Wapello Coal Co., 68 Iowa, 751.

The real intent of the statute, if it can with reasonable certainty be ascertained, will prevail over the literal sense of the words employed. Williams *v.* Poor, 65 Iowa, 414; State *v.* Garlagh, 76 Iowa, 141; District Twp. *v.* Dubuque, 70 Iowa, 262; Tully *v.* Baubien, 10 Iowa, 187; Dilger *v.* Palmer, 60 Iowa, 117; State *v.* Sherman, 46 Iowa, 415; Sexton *v.* Sexton, 129 Iowa, 487; State *ex rel* Douglass County *v.* Drexel, 106 N. W. R., 791.

Statutes enacted at the same session of the legislature should receive a construction, if possible, which will give effect to each. They are within the reason of the rule governing the construction of statutes in *pari materia,* which is supposed to speak the mind of the same legislature and the words used in each should be qualified and restricted, if necessary, in their construction and effect, so as to give validity and effect to every other act passed at the same session. Lewis' Sutherland Statutory Construction, 268; White *v.* Meadville, 177 Pa. State, 643; McBrody *v.* Terrell, 84 S. W. R., 641; State *ex rel* Lum *v.* Archibald, 45 N. W. R., 606; Powell *v.* King, 80 N. W. R., 850; Hawes *v.* Fleigler, 92 N. W. R., 223. Had the legislature intended to repeal Chapter 48 of the Acts of the Thirty-second General Assembly, or any part thereof, it would undoubtedly have said so. Not having said so, the court is

justified in presuming that it did not so intend. Clearly the park commissioners have been legislated out of office. When the new plan begins their powers end; the functions of their offices are a part of the birthright of the new system of government.

IX

Our system of government does not contemplate absolute uniformity. No two states have the same laws, nor have any two cities the same ordinances. To require that our state laws be the same as those of Texas or New Jersey would be inconsistent with the idea of self government; and to require that our city ordinances be the same as those of Davenport or Sioux City would be equally as inconsistent with the idea of self government. The national government is organized for the purpose of regulating the affairs of the nation; the state government is organized for the purpose of regulating the affairs of the state; and the city government is organized for the purpose of regulating the affairs of the city. The greatest good is best attained by allowing to each the highest degree of freedom consistent with the rights of others; and this is best attained by that just and liberal interpretation of

the constitution made necessary by our diversified interests and changing conditions.

This is a test case. In the final determination of these questions the judgment and wisdom of the Supreme Court is assured. It is elementary that state legislative power is plenary, and that he who would challenge a legislative enactment must be able to specify a particular provision of the Constitution which deprives the legislature of the power to pass the act; also that it is the duty of the court to reconcile the statutes with the Constitution when it can be done without doing violence to the language of either, and in all cases of doubt the doubt must be resolved in favor of the constitutionality of the statutes. Considering and analyzing this act section by section the court is unable to say that it is in conflict with the letter of the Constitution and therefore sustains the law.

The demurrer of the defendants to the petition of the plaintiff, and to the intervenors' petitions of intervention, is sustained.

INDEX

Abilene, Kansas, adopts commission plan, 18.
Accounts and Finance, powers and duties of department of, 223-225.
Allen, Silas B., member of Des Moines charter committee, 110.
American Municipalities, League of, secretary of elected councilman in Des Moines, 160-163.
Anthony, Kansas, adopts the new form of government, 18.
Ardmore, Oklahoma, adopts the plan, 18.
Ash, Wesley, Des Moines councilman, 162-167.
Austin, Texas, adopts Galveston plan, 18, 21.

Baily, Wm. H., takes part in harmony debate, 108-109; member of charter committee, 110.
Ballot, official, must be arranged alphabetically, 35, 192.
Beaumont, Texas, adopts Galveston plan, 18.
Berkeley, California, adopts modern charter, 18, 155; first election final if majority, 156.
Berryhill, James G., prime mover in introducing Galveston plan at Des Moines, 105, 108, 125; member of charter committee, 110.
Bismarck, North Dakota, adopts commission plan, 18.
Bohemians raise race issue at Cedar Rapids, 111-118; reconciled to new regime, 123.
Boise, Idaho, adopts plan, 18.
Boss, municipal, in state and national politics, 16.
Boston, city of, adopts plan with radical modifications, 18, 152; contingent term for mayor, 152-153; merits of its new charter, 153-155; budget controlled by mayor, 155; emphasizes expert service, 154.

INDEX

Bribery, penalty for under Des Moines plan, 194-195.
Bristol, Tennessee, adopts modified commission system, 18.
Budget of Boston controlled by mayor, 155.
Buffalo, city of, votes in favor of Des Moines plan, 18.
Bureau of Municipal Research, New York, on municipal bookkeeping, 77.
Burlington, Iowa, adopts Des Moines plan, 18, 149.

California constitution permits cities to frame own charters, 148.
Campaign expenses must be reported, 74, 207-208.
Candidates for office, how qualified, 35, 189-191.
Cedar Rapids, Iowa, adopts Des Moines plan, 18, 111-124; results, 24, 180-181.
Chamberlain, South Dakota, adopts commission plan, 18.
Charlotte, North Carolina, governed by commission, 18.
Charter committee appointed by Des Moines citizens, 110.
Checks and balances not needed under Des Moines system, 142.
Chelsea, Massachusetts, under commission plan, 18.
Cities which have adopted commission plan, list of, 17-18.
Civic pride stimulated by improved charters, 23, 25, 171, 173-174, 178-179, 181.
Civil service rules enforced at Galveston, 171; at Leavenworth, 175; Des Moines charter provisions for, 203-208; examinations must be practical, 204; certain employees excepted, 206-207; commissioners to enforce merit system, 81, 82; campaign expenses must be reported, 74, 207-208.
Clark, C. A., forecasts type of new plan, 125-138; approves plan in operation, 124.
Clarksville, Tennessee, adopts modified commission plan, 18.
Coffeyville, Kansas, adopts commission plan, 18.
Colorado constitution liberal in charter provisions, 148, 149.
Colorado Springs commission a continuing body, 155.
Columbia, South Carolina, adopts commission plan, 18.
Commercial Club, Des Moines, fosters charter movement, 105, 109, 110.

Commission form of government borrowed by Des Moines from Galveston, 9; plan a new force for democracy, 15-24; origin of, 17; list of cities which have adopted, 17-18; wide demand for, 19; too early to pass final judgment on, 23; best results not financial, 24-25; general statement of results, 98-102; specific results in five cities, 169-181; text of Des Moines charter, 185-217; upheld by courts, 249-274; plan once defeated in Iowa legislature, 106; text of defeated charter, 231-248; second attempt to secure charter succeeds, 108-110.

Conaway, F. R., an early Des Moines advocate of commission government, 125.

Contracts, officials forbidden to be interested in, 201.

Corporations, public service, relations with city improved under new regime, 87-91.

Corpus Christi, Texas, adopts Galveston plan, 18, 21.

Corruption, causes of removed, 92-97; use of money under Des Moines plan not necessary, 53-54.

Council, how organized, 35-36, 197-200; powers and duties of, 220-222; meetings must be public, 36-37, 200; proceedings must be in writing, 37, 196; publication required, 37, 208.

Councilman, office of, subject to supervision by mayor, 33, 200; salary of, 34, 199.

Courts uphold Des Moines plan, 249-274.

Cummins, Governor A. B., originates double election provisions of Des Moines charter, 158-159.

Dallas, Texas, charter suggested initiative and referendum to Des Moines, 9; adoption of, 18, 21.

Dangers in small governing body offset by direct responsibility, 143-145.

Dell Rapids, South Dakota, adopts commission plan, 18.

Democracy fortified by Des Moines system, 65-72.

Dennison, Texas, adopts Galveston plan, 18, 21.

Departments, municipal, how organized, 34; may make rules and regulations, 230.

Des Moines, charter of, evolved from local experience, 10-11; pertinent facts about city of, 26-32; literature of new plan extensive, 13; a southern plan adapted to northern ideals, 21; varies radically from Galveston plan, though based on it, 22; best results of new system not financial, 24-25; general statement of results, 98-102; specific benefits in five cities, 176-180; text of charter defeated in 1906, 231-248; text of Des Moines plan as adopted by legislature and city, 185-217; allotment of duties under, 220-230; new plan upheld by courts, 249-274; Des Moines plan ticket, known as the "slate," defeated, 159-163; double elections of 1908 and 1910, 158-168; recall provision amended, 218-219.

Double elections an original feature of Des Moines plan, 10; how conducted at Des Moines, 35, 158-168; at Cedar Rapids, 112-117; compared with Grand Junction preferential voting system, 159, 168.

Earle, I. M., member of Des Moines charter committee, 110.

Eau Claire, Wisconsin, adopts commission plan, 18.

Election, double, an original feature of Des Moines plan, 10; how conducted at Des Moines, 35, 158-168; at Cedar Rapids, 112-117; compared with Grand Junction preferential voting plan, 159, 168.

Elections, Des Moines charter provisions for, 191-194; purity of, how provisions for originated, 10; returns must be made at city hall within six hours, 193; campaign expenses must be reported, 74.

Eliot, Dr. Charles W., influential in promoting charter movement, 22; views on expert service embodied in Boston charter, 154.

El Paso, Texas, adopts Galveston plan, 18, 21.

Enid, Oklahoma, adopts commission plan, 18.

Epidemic of smallpox stamped out at Cedar Rapids, 119.

Etowah, Tennessee, adopts modified commission system, 18.

European and American municipal government contrasted, 16, 66.

Executive, legislative and judicial powers, objection to combining in one body answered, 141-142.
Expenditures, municipal, reports of required, 208.
Expenses of candidates need not be large under Des Moines system, 53, 54; must be reported, 74, 207-208.
Expert service provided for under Des Moines plan, 71-72, 120; under Boston charter, 154; eminent engineers employed at Galveston, 169; civic improvement expert employed at Cedar Rapids, 180.

Finance and accounts, powers and duties of department of, 223-225.
Financial results of first year of new plan in Des Moines, 179; showing of five cities, 169-181.
Fort Worth, Texas, adopts Galveston plan, 18, 21.
Franchises safeguarded, 37, 86-91, 200-201; origin of provisions on, 10; improved relations of city to public service corporations under new plan, 90.
Free passes, free service and preferential rates prohibited, 202.

Galveston, charter of, gave commission form to Des Moines, 9, 104-105; plan originated in great flood, 19-20; results of experiment, 169-172; how introduced in the north, 105; early popular favor shown by Des Moines newspaper inquiries, 109.
Gambling laws enforced at Des Moines, 163; at Cedar Rapids, 123; at Galveston, 171.
Gas works of Des Moines under private ownership, 30.
Germany, municipal conditions contrasted with those prevailing in America, 66.
Graft disappears under new plan at Cedar Rapids, 124, 132; at Des Moines, 100-101, 178; at Galveston, 171; at Houston, 173.
Grand Junction, Colorado, preferential voting plan, 149-152; compared with Des Moines double election system, 159, 168.

INDEX

Great Britain, municipal government in, compared with old methods in America, 66.
Greenville, Texas, adopts Galveston plan, 18, 21.

Hale, Wm. G., gives valuable editorial support to Des Moines plan, 107.
Hamery, John L., Des Moines councilman, 162-167.
Hanna, Prof. J. R., civic expert, elected mayor of Des Moines, 164-167.
Haverhill, Massachusetts, adopts commission plan, 18.
Houston, Texas, first city to follow Galveston's example, 18, 20; results accomplished, 24, 172-174.
Howe, Hon. James A., judge of district court, upholds Des Moines plan as constitutional, 249-274.
Huron, South Dakota, a new charter city, 18.
Hutchinson, Kansas, adopts Des Moines plan, 18.

Independence, Kansas, adopts commission plan, 18.
Indianapolis plan, Galveston plan preferred to in Des Moines, 107-109.
Ingham, Harvey, editorial champion of commission plan at Des Moines, 105, 107.
Initiative, Des Moines charter provisions for, 212-214; Wisconsin law omits, 155.
Iowa State Bar Association inaugurates charter movement, 125-138.

Jackson, Mississippi, adopts commission plan, 18.
Johnston, C. W., an early exponent of the new principle, 125.
Judicial powers, objection to combining with executive and legislative answered, 141-142.

Kansas City, Kansas, adopts Des Moines plan, 18.
Keokuk, Iowa, now under new system, 18, 149.

Kinne, Hon. L. G., outlines needed changes in Iowa municipal laws before Iowa State Bar Association, 126.

Large cities, is new system adapted to? 42-43, 145-146.
League of American Municipalities, secretary of an important factor in Des Moines charter movement, 160-163.
Leavenworth, Kansas, adopts Des Moines plan, 18; excellent results reported, 23-24, 174-175.
Legislative, executive and judicial powers, objection to combining in one body answered, 141-142.
Lewiston, Idaho, adopts commission plan, 18.
Los Angeles, Des Moines charter provision for recall borrowed from, 9.

MacVicar, John, an issue in first election under Des Moines charter, 160-163; re-elected councilman, 164-167.
Marshall, Texas, under commission government, 18, 21.
Mandan, North Dakota, adopts new system, 18.
Mathis, A. J., first mayor under Des Moines plan, 162-167.
Mayor, office of, superior to that of councilman under Des Moines plan, 33, 200; powers and duties under organizing ordinance, 222-223; salary of, 34, 199.
Meetings of council, 200.
Memphis, Tennessee, adopts commission plan, 18.
Merit system in Des Moines plan evolved from state law already in force, 9-10; how applied, 35-36; charter provisions for, 203-208.
Miami, Oklahoma, adopts commission plan, 18.
Minnesota's liberal charter policy, 148.
Minot, North Dakota, adopts new system, 18.
Missouri constitution gives large liberty in charter making to cities, 148.
Mitchell, South Dakota, adopts plan, 18.
Modifications of Galveston-Des Moines plan in other cities, 147-157.
Mt. Vernon, New York, adopts new charter, 18.

INDEX

Municipal League, National, 1904 meeting marks general interest in Galveston plan, 18.
Municipalities, League of American, secretary of active in securing adoption of Des Moines plan, 160-163.
Municipal Research, New York Bureau of, on city bookkeeping, 77.

Neodesha, Kansas, adopts commission plan, 18.
Nominations, how made, 188-190.
Non-partizan nominations and elections required under Des Moines charter, 50-58, 192; Boston charter provision, 153-154.
New York Bureau of Municipal Research on city bookkeeping, 77.

Objections to Des Moines plan answered, 139-146.
Officers, minor, and employees appointed by council, 34, 198.
Oklahoma constitution confers charter freedom upon cities, 148.
Ordinances appropriating money, etc., must remain on file one week before final passage, 201; majority vote of whole council passes, 196; urgency measures require two-thirds vote, 214-215.
Oregon constitution liberal in charter provisions, 148.
Ottumwa, Iowa, commission plan first outlined there by Col. C. A. Clark, 126.

Palestine, Texas, adopts Galveston plan, 18, 21.
Park system of Des Moines, formerly independent, now controlled by city, 29.
Parks and public property, powers and duties of department of, 228-229.
Partizanship, elimination of in Des Moines charter resulted from nation-wide discussion, 9; how effected, 50-57, 192; equally desirable in largest cities, 145-146.

Pierre, South Dakota, adopts commission plan, 18.
Pittsburg, Kansas, under new system, 18.
Preferential voting plan of Grand Junction, 149-152; compared with Des Moines double election plan, 159, 168.
Primary elections, Des Moines plan provision, 189-195; Berkeley plan, 155-156, 168; Grand Junction preferential voting substitute, 149-152.
Prostitution successfully dealt with at Des Moines, 100, 163.
Protest, right of, in municipal legislation, 38, 214-215.
Public safety, powers and duties of department of, 225-226.
Public sentiment gains power by election of council by city at large, 43.
Public service corporations, relations of with city improved under new system, 87-91.
Publicity, origin of provisions for, 10; how guaranteed under Des Moines plan, 74-79.

Quarantine regulations, ignored under old system, enforced under new plan, 119.

Rapid City, South Dakota, adopts commission plan, 18.
Read, John M., member of Des Moines charter committee, 110.
Recall, Des Moines charter provision for borrowed from Los Angeles, 9; text of provision, 209-212, 218-219; how applied, 38.
Receipts and expenditures, reports of required, 208.
Referendum, Des Moines charter provisions, 212-215; was an enlargement of right already enjoyed under state law, 9; how applied, 38.
Removals for misconduct, 205.
Research, New York Bureau of Municipal, on city bookkeeping, 77.
Responsibility, official, established, 58-64; democracy strengthened through, 143.
Richard City, Tennessee, adopts modified plan, 18.

Riverside, California, under commission government, 18.
Robinson, Charles Mulford, employed as civic improvement expert at Cedar Rapids, 180.
Roswell, New Mexico, adopts new plan, 18.

Salaries of mayor and councilmen, 34, 199-200; compensation of other officers and employees fixed by council, 198-199.
San Antonio, Texas, under Galveston plan, 18, 21.
San Diego, California, adopts commission government, 18; favorable results reported, 23.
Sanitary regulations enforced at Cedar Rapids, 119, 181; at Galveston, 171; at Houston, 173.
Schools not under city government at Des Moines, 29; included in Berkeley charter, 155-156.
Schramm, Charles W., Des Moines councilman, 162-167.
"Scratchers'" movement for non-partizan city government in Des Moines, 93, 94.
Shaw, Albert, contributes to charter movement, 16.
Sherman, Texas, adopts Galveston system, 18.
Sioux City, Iowa, now under commission government, 18, 149.
Sioux Falls, South Dakota, adopts the plan, 18.
"Slates," nomination of resented by Des Moines voters, 159-163.
Social evil successfully dealt with at Des Moines, 100, 163.
St. Joseph, Missouri, adopts commission government, 18.
Street railway system of Des Moines, 30.
Streets and public improvements, powers and duties of department of, 226-228.
Surrender of charter permitted after six years' trial, 215-217.

Tacoma, Washington, under modified Des Moines plan, 18.
Telephone systems of Des Moines consolidating, 30.
Terminology of new system not wholly satisfactory, 156-157.
Topeka, Kansas, adopts Des Moines plan, 18.
Tulsa, Oklahoma, under commission government, 18.

Vermillion, South Dakota, adopts plan, 18.
Veto power, mayor has no, 195.

Waco, Texas, adopts Galveston plan, 18.
Ward system abolished, 40-49; abolition of inherent in commission plan, 10; as desirable in large as in small cities, 146; Boston charter does away with, 153-154.
Washington, city of, cited as example of efficient government by commission, 133.
Washington, state of, permits cities to frame own charters, 148.
Water supply of Des Moines, 30.
Whitlock, Brand, aids charter movement, 22.
Wichita, Kansas, adopts Des Moines plan, 18.
Wisconsin law provides for continuing commission and omits initiative and recall, 155.
Women's clubs helpful in solving civic problems in Des Moines, 11.

Young, Hon. Lafayette, a loyal editorial supporter of the new plan at Des Moines, 107.

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